

Sold Out:
**Analyzing the For-Profit Resale Market
for Concert Tickets in British Columbia**

by
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Ethics Statement

The author, whose name appears on the title page of this work, has obtained, for the research described in this work, either:

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Abstract

This capstone analyzes the for-profit resale market for tickets to large concerts in British Columbia and identifies policy options that address this public policy problem. Following a brief background on the subject in British Columbia, this capstone advances through a mixed-methods research methodology consisting of an academic literature review, case study analysis, qualitative analysis, and quantitative analysis. From this research base the capstone then outlines three policy options: the status quo, prohibition, and regulating the for-profit resale market. Five criteria are established against which the options are evaluated, and the option of regulating the for-profit resale market for tickets to large concerts in two phases is recommended.

Keywords: for-profit ticket resale; concerts; consumer protection; mixed-methods; ticket bots

To Steve and Karen Levesque

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List of Acronyms

ARI	Angus Reid Institute
BC	British Columbia
CPBC	Consumer Protection British Columbia

Glossary

Concerts	See Large Musical Events.
Entertainment Event	A live sporting, theatre, or music event.
For-profit Ticket Resale	An economic transaction in which a ticket for an entertainment event is purchased by a Secondary Seller in the Primary Market with the intent to be resold at a higher price in the Secondary Market.
Large Musical Events	A subset of Entertainment Events including only concerts being held at major entertainment arenas in British Columbia.
Primary Market	Market in which the Primary Seller makes available for sale the initial allocation of tickets to an entertainment event.
Primary Seller	Individual or company which introduces tickets for entertainment events for first sale in the Primary Market.
Secondary Market	Market in which Secondary Sellers make available for resale tickets which were originally purchased in the Primary Market.
Secondary Seller	Individual or company which resells tickets purchased in the Primary Market for profit.
Ticket Bots	Computer software designed to purchase tickets in the Primary Market.
Ticket Market	Overall market for tickets to Entertainment Events that includes both the Primary Market and the Secondary Market.
Ticket Reseller	See Secondary Seller.
Ticket to an Entertainment Event	An object, either physical or virtual, that grants the holder entry to an Entertainment Event.
Ticket Vendor	See Primary Seller.

Executive Summary

Policy Problem

For-profit ticket resale to entertainment events, commonly referred to as scalping, refers to economic transactions where tickets are purchased in the primary ticket market by individuals who intend to resell these tickets to consumers in the secondary market at a higher-than-original price. For-profit ticket resale is common across Canada, and has been for many years; however, the emergence of new technologies has changed the for-profit resale market from being a relatively small-scale market with high transaction costs to a large, increasingly international market where online resale platforms facilitate the resale of tickets between reseller and consumer. The growth of the modern for-profit ticket resale market has both increased the efficiency of the resale market and earned the ire of consumers for what is often viewed as an unfair business model. Currently in BC there are no restrictions on the for-profit ticket resale market, and finding a balance between the benefits and consequences of for-profit resale requires a robust public policy analysis of the issues and concerns.

The policy problem that this capstone addresses is that the current state of the for-profit resale market for valid tickets to large musical events in British Columbia leaves consumers vulnerable to unfair business practices. By focusing the policy problem to examine the for-profit resale market only in the context of valid tickets to large musical events, this problem is scoped to focus on the area in which the issues associated with for-profit ticket resale are most acute. To address this problem, this capstone examines the economic forces underlying the for-profit ticket resale market, the impact of for-profit ticket resale on Canadians, and policy solutions that can be drawn from other Canadian jurisdictions.

Methods

This capstone uses a mixed-methods approach to address the policy problem. First, a review of academic literature is presented which represents the knowledge base upon which this capstone builds. Consistent with the mixed-method approach, this capstone incorporates primary and secondary qualitative research and secondary quantitative research. Three case studies of relevant jurisdictions—Ontario,

Saskatchewan, and Manitoba—are conducted, which provide real-world examples of for-profit ticket resale regulation in Canada. Semi-structured interviews are conducted with nine subject-matter experts across Canada including academics, public officials, public figures, and industry commentators. A quantitative analysis of major trends in public opinion is conducted using data made available by the Angus Reid Institute.

Data Analysis

The case studies identified the legislative framework currently existing in British Columbia as well as those in the examined provinces. The legislative framework for each province varies, ranging from a prohibition on for-profit resale in Manitoba to price controls on resale mark-ups in Ontario to a system of cooldown periods in Saskatchewan. Each of these cases represents an attempt by the respective provincial governments to regulate the for-profit ticket resale market, albeit to different levels.

Using a content analysis approach on the primary data collected highlighted several key trends. Participants viewed concert tickets as a unique economic good where the market forces driving ticket sales are compounded by factors associated with the live entertainment events. They also noted the evolving nature of the for-profit ticket resale market, noting both the increased integration of promoters, primary sellers, and secondary sellers, as well as the impact emergent technologies such as ticket bots have had on the market. A common rationale amongst interview participants regarding government regulation is a concern for fairness, but there was little consensus about the appropriate form government regulation should take.

The perception of the public on the issue was derived from an analysis of the high-level trends in public opinion data. A majority of Canadians believe the for-profit ticket resale market is unfair, and that ticket bots represented a major problem for consumers. Engagement with the ticket market was a crucial factor to understanding how Canadians view the for-profit resale market. While Canadians were divided on whether the problems associated with for-profit resale should be solved by government or by industry, Canadians who are more likely to support government action are those who are most engaged with the ticket sale and resale markets.

Policy Options

Drawing from the case studies, three policy options to address the for-profit resale market are proposed. The first option is to stick with the status quo and leave the for-profit resale market for concert tickets unregulated. The second option is a prohibition on for-profit resale, similar to the approach currently in place in Manitoba and the framework proposed in BC in 2009. The third option is regulating the for-profit resale market using a variety of policy tools that could include: price caps, cooldown periods, ticket disclosure requirements, ticket diversion prohibitions, and ticket bot prohibitions.

Evaluation Criteria

Based upon the data collected, five criteria and corresponding measures are established against which the policy options will be evaluated. The primary criterion is effective consumer protection, which measures the extent to which a policy option effectively affects the distribution of benefits between consumers and resellers associated with the sale of tickets. The second societal objective in this evaluation framework is economic efficiency, which recognizes the impact consumer protection regulations could have on the operation of the ticket market. In addition to these two societal objectives, the government management objectives considered in this framework are public opinion, stakeholder acceptance, and administrative complexity.

Policy Analysis

The status quo option preforms well because it requires no action on behalf of the government and is the preferred action of stakeholders. As a trade-off, because the status quo does not regulate the for-profit ticket resale market it fails to address the unfair aspects of the for-profit resale market and does not receive the support of the public. A prohibition on for-profit resale would severely constrain the resale market yet would also be ineffective at advancing consumer protection because it ignores market forces and will likely drive the for-profit resale market underground. Enforcing a prohibition would be difficult, and it would be seen by the public as going too far. As a result, this option preforms poorly. Regulating the market by introducing cooldown periods, prohibiting the diversion of tickets to affiliated resellers, and prohibiting the use of bots scored the highest of the three options. While there are challenges with

enforcement—a common challenge for many for-profit ticket resale regulations—it would moderately advance consumer protection while only imposing moderate constraints on the market. Additionally, this suite of tools would be well received by the public and stakeholders.

Recommendation

Based on the findings from the policy analysis, the recommendation of this capstone is that the Province of BC should regulate the for-profit concert ticket resale market using the policy tools presented in a two-phase approach. In the first phase, the Government should introduce cooldown periods and ticket diversion prohibitions. These options are readily enforceable and will have an immediate impact on consumer protection. In the long-run, the Government of BC should work with key industry stakeholders to design a regulatory framework that would enable regulators to effectively prohibit the use of ticket bot software.

This capstone analyzed the for-profit resale market for large musical event tickets in British Columbia, and is one of the first studies to focus specifically on the province of British Columbia. Further research into the for-profit resale market for tickets to live-entertainment events other than music, particularly sporting events, or involving stakeholders more directly in the research process would all benefit the understanding of this topic. Ultimately, for-profit ticket resale is a complex public policy issue and finding ways to address the problems associated with this market will result in a fairer marketplace for consumers of concert tickets in British Columbia.

Chapter 1.

The Opening Act

For-profit ticket resale to large musical events such as concerts, commonly referred to as “scalping,” occurs when an individual or corporation purchases a ticket to an event with the intent to resell that ticket to consumers for a profit. A report by the New York Attorney General (Schneiderman, 2016) identifies the process by which tickets are made available to consumers in the concert ticket market. First, an artist signs a contract with a tour promoter to organize the tour and set the price levels for tickets, and the promoter signs a contract with one or multiple primary sellers that make tickets for the shows available for sale at the specified price points. Tickets are then made available for sale in the primary market where they may be purchased directly by consumers who intend to attend the show or by secondary sellers who intend to resell the tickets to consumers at a price above face value. By purchasing tickets in the primary market and reselling them above face value in the secondary market, ticket resellers are able to earn a profit at the expense of the consumers who, if they are unable to acquire a ticket in the primary market, will have to pay a higher price to acquire the ticket in the secondary market if they want to attend the event.

For-profit ticket resale is a persistent and evolving element of ticket markets for entertainment events across North America. For over a hundred years, for-profit resale has thrived despite many attempts by governments to regulate or eliminate this practice (Segrave, 2006), and technological advances are changing how the for-profit resale market operates. Online ticket resale platforms and ticket-purchasing software known as “ticket bots” have transformed what was once a small scale, local business to a large international industry estimated to be worth \$7-8 billion dollars globally (Courty, 2017b). One large-scale bot operator alone in New York employed multiple ticket bots, over 10,000 unique IP addresses, dozens of P.O. boxes and over 500 credit cards was found to have an annual revenue of \$42 million dollars in 2013 (Schneiderman, 2016). The rate of technological advancement in the secondary market makes for-profit resale a reality for most popular entertainment events in North America.

While commonplace, for-profit ticket resale is an often-maligned practice. In 1901 a New York City magistrate proclaimed that the “greatest evil that theatergoers in this city have to contend with is the ticket speculator. They are practically highwaymen and hold up everybody that goes to a place of amusement” (Segrave, 2006, 55). Flash-forward a little over a century, and discussions about ticket resellers still elicit similar passion and vitriol (Dormer, 2016). At the core of this discontent is the perceived unfairness associated with for-profit resale. A majority of Canadians believe it is unfair for individuals to purchase tickets to events with the intent to resell them for a profit, and find the prices being charged in the secondary market unreasonable (Angus Reid Institute, 2017). As a result of this widespread opposition, many governments in Canada have tried to regulate the for-profit resale market.

In Canada, provinces have the jurisdiction to regulate for-profit ticket resale, but not all provinces have done so. Provinces including Saskatchewan (Government of Saskatchewan, 2010a), Manitoba (Government of Manitoba, 2015), and Ontario (Ontario Ministry of Attorney General, 2017) regulate the for-profit ticket resale market to varying degrees. The regulatory approach of each province differs, but each framework affects the market by either regulating or prohibiting the for-profit resale of tickets. In British Columbia there is currently no law regulating the for-profit resale of valid tickets to concerts and as such the arrival of popular concert tours is often met with a chorus of howls from fans who were unable to secure tickets in the primary market at face value (Balujam & Zussman, 2016). The 2017 BC provincial election resulted in a new government that is considering taking regulatory action (Yuzda & Little, 2017). The Government of BC is currently consulting the public on this issue (Government of British Columbia, 2018), which presents a policy window in which new ideas can be proposed to address this issue.

1.1. Defining the Policy Problem

The policy problem this capstone addresses is:

The current state of the for-profit resale market for valid tickets to large musical events in British Columbia leaves consumers vulnerable to unfair business practices.

This policy problem is scoped in several important ways. The focus on large musical events scopes the problem to focus on popular concerts and not on other events for which tickets are required. This is necessary because the factors influencing the for-profit resale market for tickets to large musical events are different than those in other entertainment industries such as sports, as will be discussed in Chapter 6. In the context of BC, large musical events are defined as those concerts happening at major entertainment venues in Vancouver. By focusing on the vulnerability to unfair business practices, this problem is scoped to focus on business practices that circumvent an equitable ticket-purchasing process. In the modern ticket market, most transactions occur on online sale and resale platforms. Primary vendors make tickets available for sale to consumers, and promote an equitable-ticketing process through controls such as restricting the number of tickets an individual is permitted to buy to an event. Practices that circumvent these limits or otherwise circumvent a consumers' ability to purchase tickets in the primary market at the face value price in doing so circumvent an equitable ticket-purchasing process. The focus on valid tickets scopes the problem away from examining ticket fraud, a real but different issue. Framing the problem in this manner enables a concise analysis of the issues in the for-profit resale market for concert tickets in BC.

1.2. Objective of this Study

This capstone represents a rigorous analysis of the for-profit ticket resale market for valid tickets to large musical events in British Columbia. In Chapter 2, I present the contextual information necessary to situate the policy problem, and in Chapter 3 I outline the methods that are used to address this problem: a literature review (Chapter 4), three case studies (Chapter 5), and a combination of quantitative and qualitative data analysis (Chapter 6). Using this data, I outline three policy options and the criteria and measures against which they will be evaluated (Chapter 7), evaluate the policy options (Chapter 8), and provide a recommendation and conclusion (Chapter 9). In doing so, this capstone and is one of the first studies to analyzes this complex topic from a British Columbian perspective, and represents a timely contribution to the public discourse surrounding this public policy issue in British Columbia.

Chapter 2.

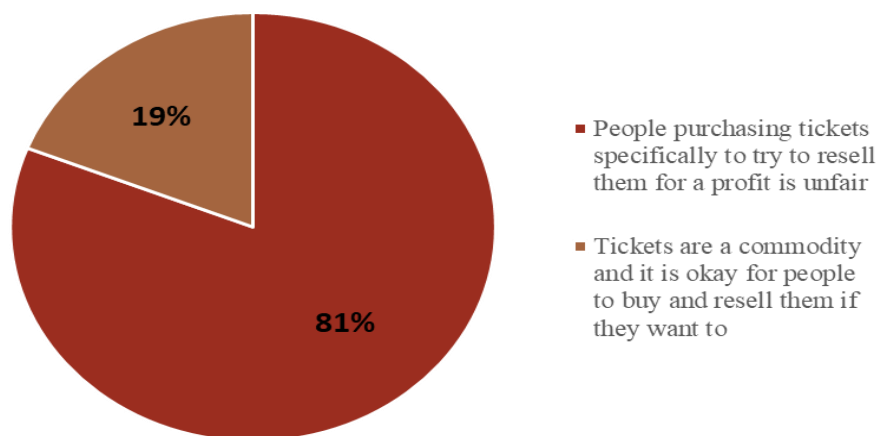
Setting the Stage

2.1. Policy Windows across Canada

British Columbia is not the only province in which a policy window for regulating the for-profit ticket resale market has opened in recent years. Saskatchewan implemented for-profit resale regulations following significant consumer backlash over a sold out concert and alleged price gouging by resellers (Burton, 2008), and the 2016 Tragically Hip tour was a catalyst for discussions on the role of for-profit resale across Canada (Common, 2016; O’Kane, 2017; Shaw & Eagland, 2018). This trend in public opinion is a major reason that for-profit resale has appeared on the legislative agenda for so many provinces. As shown in Figure 1, over 80% of Canadians find for-profit resale unfair (Angus Reid Institute, 2017), and governments have begun responding to what is essentially a low-complexity high-salience issue (Gormley Jr., 1986) in order to win public approval.

Figure 1: Public Opinion on Fairness of For-profit Resale

Which option more closely represents your opinion on the for-profit ticket resale market?



Data drawn from (Angus Reid Institute, 2017).

Another important reason that regulating for-profit resale is appearing on legislative agendas is the evolving nature of the for-profit resale market. Fundamental changes to the operation of the ticket market have exacerbated the challenges associated with for-profit resale.

2.2. An Evolving Market for Resold Tickets

The market structure of the ticket market for large musical events has changed substantially in recent years. Some primary sellers have begun adopting dynamic pricing models for tickets in the primary market, and for-profit ticket resale in some circumstances has gone from being primarily a small-scale activity to occurring in large, centralized marketplaces (Courty, 2017a). The vertical integration of LiveNation, the worlds largest tour promoter, with Ticketmaster, a major primary vendor in Canada, and TicketsNow, a ticket resale platform, is just one example of how vendors are able to engage in dynamic pricing models in the modern ticket market (Sweeting, 2012). The vertical integration of the primary and secondary markets creates the potential for even more market power to accrue to ticket vendors (Happel & Jennings, 2009). For example, by being directly involved in the resale business, there are potential incentives for primary vendors to divert tickets from the primary market to the secondary market. Ticketmaster has been accused in the past of rationing tickets in the early market for sale at a premium in the resale market (Happel & Jennings, 2009). Happel and Jennings (2009) argue this increase in market power acquired through integration decreases competition and represents a negative development in the ticket market. The modern ticket market is characterized by a changing market structure that blurs the distinction between ticket vendors and ticket resellers.

Technological innovation has altered the for-profit ticket resale market in profound ways. In past markets, ticket purchasing and resale was a time-consuming process that often required physically being in line for tickets when they went on sale at the box office (Courty, 2017b). Traditionally, ticket resellers would have waited in line, or have hired “diggers” to wait in line for them, in order to acquire tickets for resale (Happel & Jennings, 2009). The advent of the internet changed both how tickets are bought in the primary market and resold in the secondary market. Resellers have begun using sophisticated computer programs known as ticket bots to purchase large amounts of tickets quickly, depriving fans from being able to purchase tickets in the primary market

(Courty, 2017b). In particular, bots have been found to target the events in which there is the greatest profit to be made through resale (Courty, 2017b). Specialized online ticket resale markets, such as Stubhub, have made it easier for ticket resellers to sell to a broader market (Courty, 2017a). These innovations have lowered transaction costs in the market and increased the opportunity for for-profit resale to occur.

2.3. How For-Profit Resale Effects Consumers

There is evidence that changes to the operation of the ticket market are impacting consumer outcomes. For example, by using ticket bot programs one reseller was able to acquire over 1,000 tickets to a single concert in under a minute in spite of the four-ticket limit per person limit the primary vendor specified (Schneiderman, 2016). The leaked Paradise Papers provide another glimpse into the profitability of the for-profit resale market. The Papers revealed that one Canadian ticket broker made nearly \$8 million dollars in 2014 alone by purchasing and reselling large amounts of tickets to popular events in a manner that event security specialists described as unfeasible without the aid of complex computer software used to circumvent security measures on primary seller's websites (Seglins, Houlihan, & Ouellet, 2017). The New York Attorney General concludes that in the current ticket market

“[t]he average fan vying to purchase a ticket to a popular concert has little hope of competing against brokers, many of whom use illegal and unfair means to purchase tickets.” (Schneiderman, 2016)

These changes have exacerbated but not altered the fundamental issue surrounding for-profit resale, which is about who should benefit from the sale of a ticket.

Purchasing a ticket to an event is a voluntary economic transaction that creates economic surplus in the market, and for-profit resale changes the allocation of the surplus. When consumers purchase tickets in the primary market, their consumer surplus is maximized because the difference between their willingness to pay and the price they pay—the face value price—is at its greatest (Leslie & Sorenson, 2010). When secondary sellers purchase tickets and place them on the resale market, they assume the risk of selling the ticket from the primary vendor but also position themselves to earn some—if not all depending on the extent of the mark-up—of the surplus that would have otherwise accrued to consumers (Leslie & Sorenson, 2010). When consumers purchase

their tickets in the resale market at a price above face value, a portion of their surplus is diverted to resellers (Leslie & Sorenson, 2010). Thus, for-profit resale can be understood as a form of rent-seeking whereby resellers capture part or all of the economic surplus that would have accrued to consumers had they been able to purchase tickets at face value in the primary market (Leslie & Sorenson, 2010). Promoting fairness for consumers requires targeting the rent-seeking practices which deprive them of their economic surplus.

Chapter 3.

Behind the Scenes: Methods and Data

3.1. Purpose

This capstone addresses three primary research questions: 1) what economic forces underlie the for-profit ticket resale market; 2) how does the for-profit ticket resale market impact consumers, and 3) what solutions can be learned from experts or other Canadian jurisdictions? Using a research question driven approach to determine the methodology (Plano Clark & Badiie, 2017), a mixed-method approach that involves both quantitative and qualitative methods is used in addition to an academic literature review. Qualitative methods, including secondary research of case studies and primary research through expert interviews, are used to build upon the body of knowledge and expertise gathered in the literature review. Additionally, quantitative methods are used to analyze survey data collected by a third-party. The two approaches augment each other, and through a thorough mixed-methods approach a robust body of evidence is established.

3.2. Data Collection and Participant Recruitment

Consistent with the mixed-methods approach, data is collected from a variety of sources. The literature review will consist primarily of academic work available through university databases. For the case studies, data is collected from sources including government publications, third-party reports, and media. The survey data used in the quantitative analysis comes from a May 2017 report (Angus Reid Institute, 2017), published by the Angus Reid Institute. The report presented the results of an online opinion survey, and the statistical, unidentifiable data was provided by the ARI upon request. This survey data was originally collected for a purpose other than the current research purpose of this study but the questions asked of respondents were relevant to this research.

For the primary qualitative research, data was collected through semi-structured interviews. In total, 9 subject-matter experts were interviewed:

1. Interview Participant One: Doctor of Economics, University of Victoria

2. Interview Participant Two: Policy Analyst, Government of British Columbia
3. Interview Participant Three: Policy Director, Government of British Columbia
4. Interview Participant Four: Director, Financial and Consumer Affairs Authority of Saskatchewan
5. Interview Participant Five: Doctor of Music, University of Toronto
6. Interview Participant Six: Elected Official, British Columbia
7. Interview Participant Seven: Industry Commentator, Ontario
8. Interview Participant Eight: Industry Commentator, Ontario
9. Interview Participant Nine: Entertainment Lawyer, British Columbia

Each participant was recruited on a voluntary basis through direct contact. Formal recruitment began in October, and the interviews ran through January. The interviews occurred either in-person or over the phone, and they ranged between 30 minutes to 60 minutes. The semi-structured interviews loosely followed an interview guide built by the researcher (see Appendix A), and were designed to allow for flexibility in questioning. This primary data collection was approved by the SFU Office of Research Ethics. Based on participant consent audio recordings were taken and selectively transcribed. Pursuant to the ethics approval received, all efforts were made to protect the data.

3.3. Literature Review

A literature review was conducted to build the body of knowledge necessary to facilitate the use of the mixed-methods approach. The main steps involved in a literature review include developing the research topic, searching for and assessing research material, and summarizing the information on behalf of readers who may not be familiar with the broader literature (Thomas & Hodges, 2013). This approach was replicated in this study.

3.4. Data Analysis

3.4.1. Case Studies

Three cases are analyzed to provide examples of what regulatory actions other jurisdictions have taken to address the policy issue of for-profit ticket resale. Case studies are useful in the field of public policy because they bridge the normative assumptions made in the academic literature to the actions taken by public decision-makers (Molloy, 2012). In this study, the provinces of Ontario, Saskatchewan, and Manitoba were chosen because each province adopted a different legislative approach which enables the comparison of a broad range of options. These cases were chosen because the range of policy approaches taken and the similar jurisdictional contexts allowed for a focused comparison on the differences. Ultimately, the cases studied informed the development and assessment of the policy options.

3.4.2. Expert Interviews

Qualitative data was collected through a series of semi-structured interviews and analyzed using a content analysis approach. Semi-structured interviews are focused around a question stem which allows freedom to the participant to respond and to the interviewer to react (Morse, Gubrium, Holstein, Marvasti, & Mckinney, 2014). Semi-structured interviews are most effective when the interviewer is familiar with the general subject area but cannot predict the answers respondents will give (Morse et al., 2014), which was appropriate for this study. Content analysis is a descriptive analytical process in which data is separated from individual interview contexts and compiled into categories of similar data in a manner that allows analysis of these data categories and the relationships between them (Morse et al., 2014). The findings of this analysis were used to verify information on key issues and to provide insight into the policy evaluation.

3.4.3. Quantitative Analysis

A quantitative analysis of statistical data collected by the ARI was conducted to elicit key trends in the public opinion. Analysis of secondary quantitative survey data enables researches to analyze large, representative, methodologically sound data that they would otherwise be unable or unlikely to gather (Kiecolt & Nathan, 2011). This is

true of the data collected by the ARI, which is a national survey of public opinion with a sample size of 1517 (Angus Reid Institute, 2017). To maintain the integrity of the sample, the secondary analysis applied national trends to BC and distinctions were only made where the opinion of British Columbians differed significantly from other Canadians. This analysis enables the assessment of the subjective impact of for-profit ticket resale on Canadians.

3.5. Data Limitations

The data collected and used in this project was subject to several constraints that could impact the policy evaluation. The quantitative data, while invaluable to understanding public perception of the issue, was collected by a third-party for purposes other than this study and as such may not have included questions that could have been included had the survey been purpose-drafted. As well, because the data was statistical in nature and not microdata, quantitative analysis was limited to high-level trends. The qualitative data collected during the semi-structured interviews could have been biased by the recruitment process, in which participants were voluntarily recruited through a direct contact approach. While reasonable efforts were made to ensure relevant experts were recruited, the nature of recruitment could have led to relevant individuals being inadvertently excluded. It is important to note that while repeated efforts were made to include participants representing primary or secondary sellers, no individuals representing the interests of these key industry stakeholders consented to participate in this study. However, several interview participants were able to speak generally about the concerns of stakeholders, so while there was no direct participation from stakeholders, attempts were made to incorporate their views where possible.

Chapter 4.

Literature Review

4.1. Economics of the Ticket Market

4.1.1. Tickets as an Economic Good

In a textbook description of the ticket market (McCloskey, 1985; Swofford, 1999), ticket vendors plan to sell tickets to consumers and charge a face value price. Consumers purchase tickets to gain entry to events they wish to see, and will purchase a ticket as long as the price is below or equal to their maximum willingness to pay (Swofford, 1999). Using standard economic theory, the difference between the willingness to pay and the face value set by producers represents the potential consumer surplus for consumers. For-profit ticket resellers operate by purchasing tickets at the face value and reallocating them to consumers in the secondary market at price higher than the one printed on the ticket (Swofford, 1999). The resulting market outcome, where ticket vendors seemingly leave profit on the table to be scooped up by ticket resellers, may seem an oddity at first glance; however, there are a variety of factors in the ticket market that create the conditions for resale to occur between the primary and secondary markets.

4.1.2. Primary Market

The ticket market originates with the initial sale of tickets by ticket vendors in the primary market. Through the sale of tickets, vendors introduce the supply of tickets to the primary market (Courty, 2003a). Tickets are sold at a face value price that is primarily determined by a firm's cost decisions and not on the characteristics of the event (Shapiro, Dwyer, & Drayer, 2016). Ticket vendors are profit maximizers, and as events are often perceived by consumers as being unique events, ticket vendors have a certain degree of monopoly power (Happel, Stephen K.; Jennings, 1995). Entertainment events primarily occur in fixed-seating venues, such as stadiums, and as such capacity constraints act as a cap on supply (Courty, 2003a); however, the nature of fixed-seating events also means that the marginal cost of selling one additional ticket is zero up to the

point at which all tickets are sold and capacity is reached. The limited supply of tickets often results in high or even excess demand for tickets (Happel & Jennings, 2009). These characteristics facilitate price discrimination and underpricing in the primary market.

Price Discrimination

Ticket vendors in the primary market use their monopoly power to price discriminate. Price discrimination in the ticket market “serves to sort customers with different tastes to various service classes” (Rosen & Rosenfield, 1997, 351); in doing so, firms are able to extract more surplus from consumers than they would be able to at a constant price. Price discrimination is common in markets where capacity constraints result in the average cost of providing a good to a consumer on the margin higher than the marginal cost of providing the good (Rosen & Rosenfield, 1997). One form of price discrimination occurs when seats are priced differently based on the quality of the seat. Seat quality price discrimination is referred to as “scaling the house” (Courty, 2000), and a common result of this form of price discrimination is that tickets closer to the stage will cost more than those located further away. While it is possible that each seat could be scaled individually, it is costly for firms to perfectly scale the house; thus it is more likely the seats will be scaled imperfectly into seating zones rather than perfectly according to individual seats (Courty, 2000). By imperfectly price discriminating, ticket vendors charge price differentials based on the quality of seat.

Underpricing

For a variety of reasons, prices for tickets are often below the market rate. Better tickets could be underpriced to ensure they are filled, which makes it tougher for individuals to game the system by purchasing cheaper tickets and moving to better seats (Cheung, 1977). An entertainment event is a social good, and demand for social goods, depends in part on the demand by other consumers; that is, the desire of others in the event increases one’s own desire (Becker, 1991). Lower ticket prices can draw consumers to the event and in doing so increase the demand of others to attend. This phenomenon of socially-derived demand can result in a mob-mentality effect where consumers may make purchasing decisions they otherwise would not (Deserpa, 1994). Similarly, Happel and Jennings argue that tickets are underpriced to create a perception of scarcity, and that the risk of overpricing tickets could result in tickets not being sold

and create the perception that the event in question is not interesting enough to attract consumers (Happel & Jennings, 2009). Ticket underpricing in the entertainment industry is a commonly accepted phenomenon (Courty, 2003a; Happel & Jennings, 2009), and the presence of the for-profit resale market in which voluntary transactions are made at price points well above face value is empirical evidence that the face value price is often below the true market value.

While entertainment events are often in high demand, demand for individual events can vary and as such ticket vendors in the primary market face considerable demand uncertainty that impacts the price they charge for tickets. Demand uncertainty in the primary market is characterized by individual demand uncertainty where individuals are not always able to plan in advance if they are going to purchase a ticket (Courty, 2003b). As a result ticket vendors cannot be certain what the demand for a particular event will be, and as they are constrained in their ability to lower the price of tickets, if a ticket vendor ex-ante sets a higher price than what consumers eventually determine they are willing to pay to purchase the ticket they could be left holding unsold tickets (Swofford, 1999). Sweeting (2012) illustrates that tickets for entertainment events are perishable goods because the producer must sell them before a certain date (the date of the event), after which the unsold tickets, or deadwood, have no value. In circumstances where firms face uncertain demand and marginal costs are constant at zero—as is the case in the primary market for tickets—firms will often set price lower than the optimum price (Leland, 1972). By underpricing tickets, profit maximizing, risk-averse vendors are better able to limit the amount of deadwood they are left with (Swofford, 1999; Courty, 2003). Thus, the demand uncertainty facing vendors is another factor explaining the underpricing of tickets in the primary market.

4.1.3. Secondary Market

A secondary market for high-demand, limited-seating-event tickets always exists and creates the opportunity for ticket scalping. Happell and Jennings, 1995.

At its core, for-profit ticket resale is possible because frictions in the primary market create the opportunity for arbitrage to occur. Swofford (1999) outlines three conditions in which ticket resellers will be able to profit from the resale of tickets. Similar to other forms of speculation, ticket resellers can earn a profit by assuming the risk of

risk averse primary vendors (Swofford, 1999). Ticket vendors often face demand uncertainty in the live entertainment market and underprice their tickets accordingly, thus opening the door to resale. The second is that when ticket resellers have lower transaction costs or other costs associated with the sale of tickets than ticket vendors, the asymmetric cost functions present the opportunity for arbitrage (Swofford, 1999). For example, when for-profit resale is possible, the advance sale of tickets presents the opportunity for ticket resellers to purchase in the early market and sell in the late market (Courty, 2003a). If competition in the late market was equal, this would not be the case; however, ticket resellers are able to out compete ticket vendors in the late market due to lower costs, and thus are able to capture profits that ticket vendors cannot capture when resale is allowed (Courty, 2003a). The third condition is when sellers and resellers face a different revenue function than ticket vendors because the reseller is a better price discriminator. Resellers price discriminate better than vendors in several ways. Ticket resellers sell tickets closer to the true cost of the ticket, which was underpriced in the primary market (Happel & Jennings, 2009). As well, ticket resellers can take advantage of the imperfect price discrimination conducted by ticket vendors and further scale the house by selling tickets to seats at a rate closer to the true value of that seat (Courty, 2000). To the extent these factors are present, opportunities for ticket resellers to arbitrage tickets in the secondary market will exist.

4.2. Regulation of the For-Profit Ticket Resale Market

Secondary ticket sellers have now existed for centuries and will continue to do so despite an equal number of centuries of efforts to eliminate them as a part of ticket distribution. Indeed, they will thrive because there is an economic need for secondary ticket markets. Happell and Jennings, 2010, 117.

Designing effective regulatory regimes to ensure compliance with for-profit ticket resale laws is a major challenge confronting ticket resale laws. Regulations are a form of deliberative state influence in social or economic spheres through the imposition of sets of commands that dictate acceptable actions (Baldwin, Cave, & Lodge, 2012a). In the economic sphere, state regulation is often justified as being necessary to correct market failures or market absences (Baldwin, Cave, & Lodge, 2012b). The three major structural models designed by governments to enforce regulations are centralized, decentered, and distributed. Centralized models focus primarily on statutory regulation enforced by

the state, decentered models revolve around independent regulatory agencies enforcing state regulations, and distributed models involve a sharing of the regulatory burden between the state, the state regulatory actor, and specific regulatees who are empowered to self-regulate their actions to a prescribed degree (Feaver & Sheehy, 2015). A coherent structural model is one that is accurately mapped to the problem government is striving to regulate and the structural organization of the regulatory institutions (Feaver & Sheehy, 2015). Mapping the problem to the correct structure requires an understanding of the different obligations and liabilities the models create.

The different structural models impose different juridical relationships between the state, the regulator, and the regulated. Centralized command and control methods impose prescriptive rules that aim to mandate or prohibit a social practice (Feaver & Sheehy, 2015). When the goal of regulating is to modify but not eliminate a social practice, decentered models are the most coherent regulatory structure (Feaver & Sheehy, 2015). The regulatory agencies at the core of these structures use their delegated rule-making power to obligate a specific liability for regulated bodies (Feaver & Sheehy, 2015). Distributed structures focus primarily on guiding behaviour by imposing general duties on specific regulatees (Feaver & Sheehy, 2015). Each structural model is associated with different levels of state control and the coherence of the model depends on the tightness of the match between the regulatory response and the model most appropriate to deal with the problem (Feaver & Sheehy, 2015). Choosing the correct structural model requires the correct identification of the regulatory burdens policy options place upon regulators and regulatees.

4.3. Summary of Literature Review

In surveying the academic literature on this topic, several key points are made:

- In the textbook model of the ticket sale and resale market, tickets are economic goods primary vendors introduce into the market where they can either be purchased directly by consumers or by resellers who in turn make tickets available for sale to consumers in the secondary market.
- Primary vendors have market power which enables them to imperfectly price discriminate and make available for sale tickets which are priced below the true market value of the ticket.

- The secondary market operates by exploiting inefficiencies in the primary market. When resellers are willing to assume more risk than primary vendors, when they have lower costs, and when they face a different revenue function, there are opportunities for for-profit resale to occur.
- Regulating for-profit ticket resale is a challenging endeavour, and developing a coherent regulatory structure where the problem being regulated is well mapped to the enforcement of the regulation is essential to designing coherent regulatory structures.

Chapter 5.

Competing Acts: Case Studies of Three Canadian Provinces

5.1. British Columbia

5.1.1. The Status Quo

The status quo consumer protection framework in BC does not include regulations on the for-profit resale market for concert tickets. Consumer protection in BC is mainly the responsibility of Consumer Protection BC (CPBC), a government-created non-profit corporation acting as a provincial regulator (Consumer Protection BC, 2018). CPBC is responsible for enforcing the consumer protections in the pieces of legislation for which it has been delegated responsibility (Consumer Protection BC, 2018). The non-profit corporation operates on a cost-recovery basis and is primarily funded through licensing fees collected from licensed businesses and occupations (Consumer Protection BC, 2016, 2018). CPBC achieves its mandate of ensuring compliance with applicable laws by investigating businesses and taking progressive enforcement action against licensees that have been found acting in contravention of the terms and conditions of their license (Consumer Protection BC, 2018). Currently, CPBC has no authority to regulate the for-profit concert ticket resale market, but it has identified the issue as a potential area of regulation (Consumer Protection BC, 2018). It is likely that any future for-profit resale regulation will be administered by CPBC, but without any regulations currently in place, the status quo in British Columbia is an unregulated market for the for-profit resale of tickets to concerts.

5.2. Ontario

5.2.1. Legislative Framework

In December 2017, the Government of Ontario passed Bill 166, which enacted the *Ticket Sales Act, 2017* (Legislative Assembly of Ontario, 2017). A major provision of this legislation is the imposition of price controls on the for-profit resale market. Pursuant

to the act, tickets sold on the resale market may not be resold at a pre-tax price that exceeds the face value price by more than 50% (Legislative Assembly of Ontario, 2017). This framework also prohibits primary sellers from making available for sale tickets to an event which were also made available for sale by an affiliated secondary seller (Legislative Assembly of Ontario, 2017). The *Act* also targets the use of particular software programs by prohibiting the use and sale of software intended to circumvent prescribed security measures on a primary sellers website (Legislative Assembly of Ontario, 2017). Transparency measures were also proposed as part of this framework. Primary sellers must disclose the number of tickets for sale to an event, the maximum capacity of the event, and both primary and secondary sellers must make the face value of the ticket known prior to the sale of the ticket (Legislative Assembly of Ontario, 2017). The primary enforcement method is through ministerial investigation. The *Act* empowers the responsible Ministry to investigate complaints and compel compliance pursuant to prescribed enforcement mechanisms (Legislative Assembly of Ontario, 2017). When this *Act* comes into force, it will regulate several aspects of the for-profit ticket resale market in the province.

5.2.2. Impacts

The *Ticket Sales Act* impacts the for-profit ticket resale market in several ways. The maximum price for which a ticket can be resold is subject to a price cap, a policy tool that received strong consumer support (Government of Ontario, 2017), but also received criticism from industry stakeholders who argue that price caps are ineffective and create unintended consequences for consumers (Fitzpatrick, 2017). Another provision of the framework that received substantial industry pressure was the disclosure provisions. The results of the consultation in Ontario indicated that over 60% of respondents supported requiring the number of tickets holdback for corporate partners or fan clubs, and over 70% supported requiring the total number of tickets that are made available for sale (Government of Ontario, 2017). However, primary sellers such as Ticketmaster lobbied hard to have this provision removed, arguing that it would help those using bots cheat the system, and ultimately the Government of Ontario acquiesced to industry pressure (Fitzpatrick, 2017). The legislation also prohibits the use of computer software that circumvents an equitable ticket purchasing process, which is a measure that received both public (Government of Ontario, 2017) and industry

(Fitzpatrick, 2017) support. The *Ticket Sales Act* will create a regulated market in which for-profit resale is legal but subject to a variety of constraints.

5.3. Saskatchewan

5.3.1. Legislative Framework

The *Ticket Sales Act* regulates many aspects of the for-profit ticket resale market in Saskatchewan. It prohibits primary sellers from including in their material any reference to a secondary seller, and prohibits any individual or entity other than a primary seller from selling or advertising the sale of tickets within 48 hours after tickets were first introduced into the primary market for sale (Government of Saskatchewan, 2010a). Individuals or entities other than primary sellers must have possession of the ticket they intend to sell, and primary sellers shall not sell tickets to purchasers outside of prescribed regions during an initial cooldown period (Government of Saskatchewan, 2010a) as set out in regulation (Government of Saskatchewan, 2010b). The *Act* also prohibits primary sellers from diverting consumers to related secondary sellers and prohibits the use of software programs to circumvent a set of measures on a primary sellers website including “a control or measure that is used to ensure an equitable ticket buying process” (Government of Saskatchewan, 2010, 4). Under the *Act*, consumers are empowered to commence legal action against individuals who have acted in contravention of the provisions stated in the *Act* (Government of Saskatchewan, 2010a). In addition, any person or corporation found contravening the provisions of the *Act* is guilty of an offence and liable on summary conviction to possible fines or imprisonment. The state-led enforcement of the *Act* is the responsibility of the Saskatchewan Financial and Consumer Affairs Authority, a public entity accountable to the Government of Saskatchewan (Financial and Consumer Affairs Authority, 2012).

5.3.2. Impacts

The *Ticket Sales Act* regulates resale activity in Saskatchewan in a variety of ways, but it does not prohibit resale from occurring, nor does it impose direct price controls on the resale of tickets in the secondary market. This allows for legal, for-profit resale to occur pursuant to a host of prescribed criteria. Consumer protection is enhanced by the imposition of time and geographic restrictions which create windows in

which local residents have an opportunity to purchase tickets in the primary market before they end up on the secondary market. Preventing ticket diversion was a popular provision at the time the bill was drafted (Burton, 2008), but Ticketmaster has argued that this provision unfairly targets the company for a business practice in which it does not participate (CBC News, 2009). The *Act* also contains measures targeting ticket bots, which has been a major source of frustration for consumers (Angus Reid Institute, 2017) and a practice which Ticketmaster itself has been trying to combat (O’Kane, 2017). Enforcement is primarily achieved through industry self-regulation pursuant to the conditions of the *Act*, and no consumer-led court cases have been documented.

5.4. Manitoba

5.4.1. Legislative Framework

The Amusements Act is a broad piece of legislation with only a single provision concerning for-profit ticket resale. Specifically, s.60 of the Amusement Act prohibits individuals from selling, bartering, or exchanging a ticket above the face value price (Government of Manitoba, 2015). Anyone found guilty of violating this provision can face a fine up to \$5,000 (Government of Manitoba, 2015). Legislative changes to the ticket resale provision of the *Amusements Act* have been proposed (Manitoba, 2009), but no changes to the act have been made. The Government of Manitoba indicated that legislative changes could be on the way (Government of Manitoba, 2016), and a government-led consultation process is soliciting feedback to facilitate possible amendments (Martin & Rollason, 2017). In the meantime, the provision of the *Act* remains unchanged and in force.

5.4.2. Impacts

By banning the resale of tickets above face value, the *Amusement Act* is a prohibition-style approach that eliminates the legal for-profit ticket resale market. However, while this law is one of the oldest and most stringent anti-scalping laws in North America (Waldie, 2011), there continues to be public debate about the efficacy of the law and its effect on the ticket market. While there are occasional arrests that make media headlines (CBC News, 2011, 2016), consumers continue to call for the government to do more to ensure tickets sold in the primary market get to fans and not

scalpers (Kavanagh, 2017; Kubinec, 2015). One major challenge to the legislation has been enforcement. One individual who resells tickets in the province, speaking confidentially to the CBC, complained about the lack of regulation preventing ticket resale—while not realizing that there was already a law outlawing the business he practiced (Kubinec & Nicholson, 2015). Promoters and ticket vendors in the province have voiced their concerns as well. True North Sports, a major sports and concert promoter in Winnipeg, argues that the law should be changed to allow tickets to be legally resold on recognized platforms—such as Ticketmaster—at any price they would be willing to pay (Martin & Rollason, 2017). Ticketmaster has previously voiced its opposition to the law, arguing that it is not enforceable in the internet era (Santin, 2009). Ticketmaster entered consultations with the government over the law, and is focusing its own efforts on anti-bot measures (Martin & Rollason, 2017). The prohibition on for-profit ticket resale is a prohibition-style approach to regulating the resale market.

Chapter 6.

Data Analysis

6.1. Learning from Experts: Qualitative Analysis

6.1.1. The Economics of Ticket Resale

Interview participants, including both academics and non-academics, confirmed many of the economic aspects of tickets postulated in the academic literature. Throughout the interviews, tickets were commonly referred to as perishable economic goods that, for a single event, have a supply fixed to the number of seats in the arena and a demand that was often socially-derived. Industry commentators and academics agreed that the face value price of tickets is often set below the true market value. Interviewee Nine, an entertainment lawyer, explained that popular artists enter into agreements with tour promoters and between them set the price levels at which the primary vendor will make the tickets available for sale. Interviewee Five, an academic, noted that artists may set prices with promoters below their true market value for several reasons: one, they may not want to be seen as price gougers, or, they recognize that demand for tickets is driven by some extent by a sense of peer excitement and don't want to set prices too high as to discourage that excitement from arising. Once the price is set, primary vendors often have little discretion to change the price once demand is revealed due to the nature of the contracts, nor do they have an incentive to do so as they make their profit primarily off the service charges associated with the sale of a ticket. Public officials, however, were less likely to agree that tickets were underpriced and instead saw for-profit resale as driving the price higher.

The economic characteristics of tickets were connected to the incentives driving the for-profit resale market, and again the dichotomy between industry commentators and public officials was present. Industry commentators argued that these characteristics opened up the possibility for gains from trade to exist between consumers and resellers based on changing circumstances, while public officials identified for-profit ticket resale as an example of an unfair exchange between resellers and consumers. These findings reinforce the theory covered in the literature review and

Chapter 4 and provide further evidence that the for-profit ticket resale market is related to the characteristics of tickets as economic goods.

6.1.2. Concerts, Sports and Uniqueness

Another key theme that emerged was the need to distinguish between the for-profit ticket resale market for concerts and those for other entertainment events, particularly sports. Industry commentators and academics highlighted that concerts, particularly large concerts, are often one-time only events that are perceived as being unique experiences. Interviewee Five, an academic specializing in the field of music, noted that artists are more likely to underprice their tickets than sporting teams, often because they don't want to be associated with price gouging. That interviewee contrasted that to the sporting event world, where games are repeated and are often simultaneously broadcast on television or radio. Interviewee One also noted that sporting teams have in many cases started their own resale platforms, embracing the secondary market in a form not typical for the musical events market. The one exception several participants noted to this distinction were playoff games, which were identified as unique experiences similar to concerts and therefore would likely be subject to similar ticket resale pressures to those events. However, even in that case interviewees with knowledge of the sporting events ticket market noted that priority in playoff ticketing is often given to season tickets holders, which is again different from the experience with for-profit ticket resale in the musical events market.

6.1.3. Modern For-Profit Ticket Resale Market

The evolving nature of the primary market and its relationship with the secondary market was a consistent theme throughout the interviews. While for-profit resale was historically a small-margin business, industry commentators noted how the advent of technologies such as the internet have fundamentally reshaped the market. Buying tickets online is easier and less time-intensive than waiting in line for physical tickets, and online ticket resale platforms facilitate resale by lowering the transaction costs of connecting reseller to buyer. The introduction of ticket bots has also changed the dynamic in the resale market, with all participants noting that bots have shifted resale from being mostly small-scale local businesses to complex, large-scale international operations. In addition, academics, government officials, and industry commentators all

commented on how the lack of transparency in the primary market effected outcomes in the secondary market. By not disclosing how many tickets are available to the general public, Interviewee One argued that primary vendors benefit from an information asymmetry between them and consumers. Interviewee Four, a regulator in Saskatchewan connected this lack of transparency to the possibility that primary vendors may divert tickets to their own resale platforms for sale at a price above face value.

6.1.4. Regulation

All participants agreed that there is a potential role for government to play in regulating the for-profit ticket resale market, but there was little consensus on the extent and form of government intervention. Fairness was the most common rationale given for government intervention into the for-profit ticket resale market. It was also commonly agreed upon that governments often seek to regulate the ticket market as a result of overwhelming public pressure to do so following focusing events, such as the final tour of the Tragically Hip. The government officials, elected official, and government regulator all noted that the practice of reselling tickets on the secondary market was unfair to consumers, and often connected to the role of consumer protection. However, Interviewee One and several of the industry commentators argued that for-profit ticket resale needs to be distinguished between problematic ticket resale involving the use of software programs and beneficial ticket resale in which tickets are a good like any other. For these participants, the voluntary transactions occurring between consumers and ticket resellers were just an example of how the market functions. There were also differing opinions between these two groups of participants about whether consumer protection in this context referred to protecting consumers from paying higher prices in the secondary market, or protecting consumers from criminal activities such as ticket fraud. These differences in opinion are reflected in the types of regulations that received support from participants.

Participants discussed public policy options that governments could employ to regulate the for-profit ticket resale market. All participants stated that prohibition models of regulation were likely to be ineffective, primarily because a prohibition ignores the market forces underlying the ticket market and would be difficult to enforce. Most participants, particularly academics and industry commentators, were similarly critical of policy that placed a cap on the maximum amount for which a ticket could be resold.

While some participants argued that a price cap could reduce the profit incentive associated with resale and enhance consumer protection, price caps were often described as an ineffective form of government regulation because it again ignores the market forces driving the ticket resale market. Some industry commentators argued that a price cap could drive the for-profit ticket resale market away from established resale platforms back to a black market. Forcing primary vendors to disclose the total number of tickets that are made available for sale and the means by which they are sold was an option that several participants supported, including government officials and academics, but the industry commentators argued that this approach has faced strong resistance from industry stakeholders. Policy options that regulated the use of software programs received support from most participants, although they all recognized the enforcement challenges associated with a provincial government attempting to regulate a practice that is often international in scope.

6.2. Give the People What They Want: Quantitative Analysis

6.2.1. Public Opinion towards the For-profit Ticket Resale Market

The attitudes of Canadians towards the primary and secondary ticket markets illustrate several high-level trends. Whether or not they purchased tickets to attend events at all, 81% of Canadians believe that it is unfair for individuals to buy tickets to entertainment events with the intent to resell those tickets for profit, and 76% view the use of ticket bots as a major problem for consumers (Angus Reid Institute, 2017). Canadians who used secondary markets were similarly critical, with nearly two-thirds of those who did use resale services stating that prices in the resale market are unreasonable (Angus Reid Institute, 2017). This high level of opposition to both for-profit resale and the use of bots illustrates the extent to which Canadians see for-profit ticket resale as problematic. However, Canadians were not sure who bears the responsibility to solve the problem of ticket resale, and were divided whether or not this responsibility rested with government or with industry self-regulation (Angus Reid Institute, 2017). From these findings, a strong consensus on for-profit ticket resale in Canada emerges; a majority of Canadians find the secondary market and associated factors unfair, and public opinion varies significantly depending on the level of engagement an individual has with ticket market.

Level of Engagement

The overall level of engagement with the ticket market is quite high, and Canadians who engage in the ticket market more than others have different opinions on the issues. A majority of Canadians buy at least one ticket to an entertainment event every year, with nearly a quarter of Canadians buying more than three tickets to events every year (Angus Reid Institute, 2017). Canadians who purchased three or more tickets to attend entertainment events are more likely to use secondary market services, and those who bought at least one ticket are more likely to see bots as a huge problem for consumers (Angus Reid Institute, 2017). This implies that the level of engagement with the primary market also increases engagement with the secondary market, and that the more familiar people are with the secondary market and related issues, the more likely they are to view it as problematic. The inverse of this is true as well, as those who do not engage in the primary market—and by extension do not engage in the secondary market—are more likely to see ticket bots as not a problem for consumers (Angus Reid Institute, 2017). The level of engagement also effects to what entity Canadians assign the burden of developing a solution for the challenges associated with ticket resale. Canadians who support government intervention are more likely to have purchased over 5 tickets a year, while those who think the problem should be solved by industry are more likely to have purchased tickets to no tickets to entertainment events (Angus Reid Institute, 2017). These trends illustrate that the level of engagement is a critical factor to understanding public opinion on ticket resale.

6.2.2. Resale Measures

Survey respondents were asked whether they supported four measures to regulate the ticket resale market. Table 1 shows the breakdown between the levels of support for the four measures, and shows that each measure was supported by a majority of Canadians (Angus Reid Institute, 2017). In particular, Canadians support making it illegal to use bots to purchase tickets and setting a limit on the maximum amount for which a ticket could be resold. Similar to general attitudes about the ticket resale market, levels of engagement matter as well. Canadians who bought at least one ticket to an entertainment event were more likely to support restrictions on bots than Canadians who did not purchase a single ticket (Angus Reid Institute, 2017). Canadians who used secondary market services were more likely to support setting a price cap on

resold tickets, while those who did not use resale services were more likely to support invalidation of tickets and prohibition on bots (Angus Reid Institute, 2017). Similar to other trends in levels of ticket market participation, this indicates that individuals are most sensitive to the aspects of the resale market that affect them most directly. Those who use secondary market services experience firsthand the prices in that market and thus are more likely to support price caps, while those who do not use those services may see for-profit resale as depriving them the opportunity to purchase tickets in the primary market and thus they support measures that limit the ability for the secondary market and those using the secondary market to acquire tickets to events. Overall this data indicates that Canadians support a broad range of measures to regulate the for-profit ticket resale market and that their level of engagement affects which measures they are more likely to support.

Table 1: Percentage of Canadians Supporting Various Regulatory Measures

Policy Options	Total	Buy >5 Tickets a Year	Buy 3-5 Tickets a Year	Buy 1-2 Tickets a Year	Never Buy Tickets
Require ticket-holders to show a credit card or receipt to prove they're the original buyer and no reseller was involved	63%	61%	63%	66%	60%
Invalidate and not accept any tickets sold on secondary markets	63%	61%	62%	64%	61%
Make it illegal to use bots to purchase tickets, and punish offenders with fines or jail time	81%	83%	85%	84%	71%
Set a legal limit on the maximum amount resellers can increase the price of a ticket	77%	80%	82%	78%	71%

Data drawn from (Angus Reid Institute, 2017).

Chapter 7.

Policy Analysis Framework: Options, Criteria, and Measures

7.1. Policy Options

To address the policy problem, three policy options are proposed: the unregulated status quo, a prohibition on for-profit resale, and a regulated for-profit resale market. The regulated market option includes aspects of for-profit ticket resale regulation found in other Canadian provinces: implementing a price cap on the maximum amount for which a ticket to a large musical event could be resold, introducing cooldown periods that limit access to tickets in the primary market subject to prescribed conditions; requiring primary vendors to disclose the amount of tickets available to the public for an event, prohibiting the diversion of tickets from primary sellers to related secondary sellers, and banning the use of ticket bot software. A two-step approach is taken to determine which option is the preferred approach. First, the status quo and prohibition options will be analyzed and evaluated using the established criteria and measures. Then, the individual features of the regulated market option are evaluated to understand the trade-offs that exist between the individual policy tools. The regulated market option is then constructed out of the best performing tools, and compared against the other two policy options in order to determine the recommended approach.

7.1.1. Status Quo

The status quo approach is for the Government of British Columbia to make no intervention into for-profit the ticket resale market for concerts and allow for-profit ticket resale transactions to occur unimpeded.

7.1.2. Prohibition

A prohibition on for-profit resale would prevent individuals or corporations from making tickets to prescribed events available for sale above the face value price of the ticket. To ensure that consumers are aware of the original price of the ticket this option

also includes provisions that require the face value of the ticket to be printed on every ticket made available for sale to prescribed events. Similar to the experience of Manitoba and the 2009 Private Members' bill, this prohibition would be implemented by amending the *Business Practices and Consumer Protection Act* to prohibit the for-profit resale of tickets to prescribed events.

7.1.3. Regulated Market

A regulated market is one in which the operation of the market for the for-profit resale of tickets to large musical events is constrained but not prohibited. The approaches taken by the Governments of Ontario and Saskatchewan illustrate several key policy tools that can be used to regulate the for-profit concert ticket resale market.

Price Cap

Introducing a price cap on resold tickets similar to the model in Ontario would restrict the maximum amount for which a ticket could be resold equal to 50% above the pre-tax original cost of the ticket. Similar to the prohibition option, to ensure that consumers are aware of the original price of the ticket this option also states that the face value of the ticket to be printed on every ticket made available for sale to prescribed events. This option would be implemented through legislation that prohibits individuals or corporations from making available for sale a ticket to a prescribed event at a price higher than 50% above the face value of the ticket, excluding service charges and applicable taxes.

Cooldown Periods

This option includes two overlapping cooldown periods. For the first hour after tickets are made available for sale in the primary market to a qualifying musical event, only individuals who meet the established criteria are eligible to purchase those tickets. This is accomplished by forcing primary vendors to only sell tickets to eligible consumers during the first window through identify-verifying methods, such as verifying the mailing address attached to the purchasing credit card. In addition, for the first 48 hours after a ticket is made available for sale to a qualifying musical event in the primary market, for-profit resale is prohibited. Similar to the case in Saskatchewan, implementing this option requires the creation of the cooldown periods through legislative provisions, which

further empower either the Minister responsible or Lieutenant Governor in Council to make regulations defining the eligibility criteria for the cooldown periods.

Disclosure Requirements

The imposition of disclosure requirements would force primary vendors to publicly disclose the maximum capacity of an event and the process by which tickets will be sold including any sale of tickets that occurs before tickets are made available to the general public. Disclosure requirements would increase transparency in the industry and reduce the information asymmetry between consumers and sellers. To implement this option, similar to the Saskatchewan and Ontario examples, legislative change would be required that introduces provisions in the consumer protection legislation compelling primary vendors to publicly disclose the required data as well provisions detailing penalties for failure to comply with the disclosure requirements.

Ticket Diversion Prohibition

Prohibiting primary vendors from directing consumers to resale platforms associated with the primary vendor addresses the increased market integration in the ticket sale market in which primary vendors are often affiliated with resale platforms. When primary vendors are affiliated with secondary vendors, there can be incentives to divert tickets away from the primary market where they are sold at face value to the secondary market where they can be sold above face value. Implementing a prohibition of ticket diversion would require the introduction of legislative provisions banning this practice as well as regulations made by the Minister responsible or Lieutenant Governor in Council that define the criteria for affiliated businesses.

Banning Ticket Bots

The Government of BC could protect consumers from unfair business practices by prohibiting the use of ticket bot programs that are intended to circumvent security measures on a primary seller's website and prohibiting the resale of any ticket knowingly obtained through the use of ticket-purchasing software that meets prescribed criteria. Implementing a ticket bot prohibition would require the introduction of legislative provisions prohibiting the use of software and the resale of tickets acquired through such software, the specifics of which would be established through regulation.

7.2. Criteria and Measures

The policy options will be evaluated against five criteria: two societal objectives and three government management objectives. These criteria were selected based on the context of the policy problem presented in Chapter 2, the academic literature surveyed in Chapter 4, and the quantitative and qualitative data analysis conducted in Chapter 6. In order to evaluate the policy options against the criteria, measures were created for each criterion.

7.2.1. Criteria

Societal Objective – Effective Consumer Protection

Protecting consumers from unfair business practices is the fundamental policy problem this capstone addresses; thus, the primary societal objective for the policy analysis is effective consumer protection. Consumer protection reflects the impact the policy options are expected to have on consumer surplus. The fundamental issue regarding for-profit ticket resale is about who should benefit from ticket sales: the consumers who want to attend the event, or resellers providing services in the secondary market; or, put differently, whether the economic surplus associated with sales in the primary market should accrue to consumers or to resellers. Including effectiveness in this criterion adds to it the element of enforceability which is crucial to the analysis of for-profit resale regulation. By defining effective consumer protection in this way, this criterion captures the likelihood that a policy option will effectively advance consumer protection because the government is able to enforce the provisions of the policy option.

Societal Objective - Efficiency

Economic efficiency refers to the level of economic activity occurring in the British Columbia ticket market. For-profit ticket resale is at its core an economic phenomenon in which tickets are reallocated to individuals with the highest willingness to pay through voluntary transactions. While the for-profit resale of tickets on the secondary market may reduce the surplus accruing to consumers, the status quo operation of the market in BC allows resellers to divert part if not all of that surplus through for-profit resale and any

restriction on their ability to provide services in the secondary market is a limitation of market operations.

Government Management Objective - Public Support

The decision to regulate the for-profit ticket resale market often comes from public pressure to act following focusing events, such as high-profile concerts to which the public are unable to acquire tickets. The evidence suggests that ticket resale is a low complexity, periodically high salience issue that attracts attention from vote-seeking politicians' eager to win votes from an engaged public.

Government Management Objective – Industry Stakeholder Acceptance

Industry stakeholder acceptance refers to the attitude of prominent stakeholders towards the legislation, and, there are two primary industry stakeholders in this policy area: primary sellers and secondary sellers. Primary sellers, particularly Ticketmaster, are major stakeholders because they are in the business of selling tickets to concerts and they have often been at the centre of for-profit ticket resale the debate in Canada. Whereas primary sellers are more uniform, secondary sellers range from individual resellers to large corporations that host resale platforms, particularly StubHub. Secondary resellers are important stakeholders as well, because they are in the business of buying and reselling tickets for profit. While the interests of primary sellers and secondary sellers are not always aligned, for this evaluation this criterion will represent the acceptance of both primary and secondary sellers as the data collected here has shown they share broadly common interests in the ticket market.

Government Management Objective - Administrative Complexity

Administrative complexity refers to the difficulty associated with designing legislative or regulatory approaches and the associated regulatory regimes. The status quo consumer protection framework in BC is a centered regulatory model with no regulations on the for-profit resale market for tickets to large musical events. Any option that requires the development of new policy tools will have an associated level of administrative complexity based on the complexity of the chosen regulatory approach.

7.2.2. Measures

Table 2: Societal Objective Measures

Objective	Criterion	Measure	Scoring	Source
Societal				
Effective Consumer Protection (x2)	Does the option effectively protect consumers from unfair business practices?	The degree to which consumer protection is likely to be advanced.	1. Consumer protection is advanced to a minor degree.	Literature; qualitative data analysis; case studies
			2. Consumer protection is advanced to a moderate degree.	
			3. Consumer protection is advanced to a large degree	
Efficiency	To what degree does the policy option limit economic efficiency?	The degree to which the policy option distorts market operation	1. Market operation will be highly affected.	Literature; qualitative data analysis; case studies
			2. Market operation will be moderately affected.	
			3. Market operation will be lightly affected.	
Government Management				
Public Approval	Will the public support the option?	Percentage of public in support of option.	1. Low public support (<50%)	Quantitative data analysis, case studies
			2. Moderate public support (50%-75%)	
			3. High public support (>75%)	
Stakeholder Acceptance	Will industry stakeholders accept the option?	The extent to which industry stakeholders accept the option.	1. Little to no stakeholder acceptance.	Qualitative data analysis; case studies
			2. Moderate stakeholder acceptance.	
			3. High stakeholder acceptance.	
Administrative Complexity	How intensive will it be to develop the legislative and regulatory framework?	Level of complexity associated with option development.	1. High level of complexity associated with option development	Literature; qualitative data analysis; case studies
			2. Moderate level of complexity associated with option development	
			3. Low level of complexity associated with option development	

Chapter 8.

Evaluating the Policy Options

8.1. Overview

This policy evaluation begins with an analysis of the two baseline policy options: the status quo and prohibition. Next, the individual policy tools within the regulated market option are analyzed individually and the trade-offs associated with each of them are weighed. Through this analysis of the individual policy tools the highest-ranking tools will be identified and combined to form the regulated market option.

The relative strengths and weaknesses associated with each of the policy options are presented in Tables 3 and 4. A ranking of three indicates that the particular policy tool performs well, a ranking of two indicates it performs moderately, a ranking of one indicates it performs poorly, and a ranking of zero indicates it performs very poorly with respect to that criterion. The effective consumer protection criterion is weighted double due to the importance of consumer protection in the analysis. The final results of the evaluation are tabulated in Table 5.

8.2. Baseline Options

8.2.1. Status Quo

The status quo approach to the for-profit resale market for tickets to large musical events would leave the market unregulated in British Columbia. Not regulating the market does not increase the opportunity for British Columbians to purchase tickets at face value and thus does not change the distribution of economic surplus and does not improve consumer protection. This policy tool will be ineffective at addressing the policy problem because it does not include any action to advance consumer protection. However, by not regulating the ticket resale market the status quo does not impose any new constraints on the market and thus would not restrict the operation of the secondary market.

The status quo approach does nothing to address the concerns raised by members of the public, a majority of which view for-profit ticket resale as unfair; and while Canadians as whole are split about whether it is a government or industry problem to solve, those who support government action are more likely to have high levels of engagement in the ticket market and doing nothing would likely receive little support from the members of the public most involved in this market. Stakeholders are expected to approve of the status quo approach, having commented that they believe the problems with ticket resale can be solved from the industry standpoint. The status quo, because it involves leaving the market unregulated, does not require administrative efforts to develop the legislative and regulatory framework.

8.2.2. Prohibition

By prohibiting the resale of tickets above face value, this approach would improve consumer protection by ensuring tickets are sold at the face value price that maximizes consumer surplus. This approach eliminates the legal for-profit resale market for tickets to large musical events, but is likely to be ineffective because it is very difficult to enforce. Prohibition on for-profit resale is a substantial form of price control, which the evidence suggests will be ineffective because it ignores the forces underpinning the resale market. Underpriced tickets to limited capacity, unique events create pressures for prices to rise, and resellers in this market are responding to those forces. Subject-matter experts were also critical of this approach, stating similar concerns that prohibition models have proven very difficult to enforce because of how technology has changed the operation of the for-profit resale market. As a result, the actual effect on consumer surplus will be minimal. Prohibition would also have a large impact on the total economic surplus in the market, representing a high loss of economic efficiency as the services the resale market provides are eliminated or moved into the black market.

A prohibition approach would likely receive moderate support from the public as it prevents actions that the public views as unfair, but would also likely be seen as going too far by those who use secondary market services. Quantitative analysis shows that many Canadians use resale services, and the larger concern is that prices in the secondary market are unreasonable, not that a secondary market exists. This approach would receive strong pushback from stakeholders as evidenced by the opposition from industry stakeholders in Manitoba which have argued strongly against a prohibition on

for-profit resale. The development of a prohibition model would be relatively simple and would require only minor legislative action, and is well-matched to the existing command and control regulatory structure in BC.

8.2.3. Baseline Options – Evaluation

The results of the evaluation of the two baseline options is presented in Table 3.

Table 3: Baseline Options

Criteria	Effective Consumer Protection	Efficiency	Public Approval	Stakeholder Acceptance	Complexity
Weight	2	1	1	1	1
Status Quo	0	3	1	3	3
Prohibition	2	1	2	1	3

8.3. Regulated Market

8.3.1. Price Caps

Imposing a price cap on the maximum amount for which a ticket to a large musical event could be resold is a form of price control. In unregulated markets, tickets sold on the resale market can command a price often several times the face value of the ticket. Capping the maximum resale amount would greatly increase the surplus available to consumers by limiting the amount of economic rent secondary sellers can capture through for-profit resale while still leaving room for resellers to sell tickets above face value. The price cap approach will be ineffective at advancing consumer protection, however, because the imposition of price controls ignores the market forces driving the for-profit resale market. Tickets to large concerts are underpriced relative to their market value, and placing a cap tied to a price point already unreflective of its market value will not alter the market forces that place pressures on ticket prices to rise. The data also suggests this option will be ineffective at advancing consumer protection because it is difficult to enforce. The advent of online resale platforms has transformed the for-profit resale market, and as a result it has become easier for individuals outside of the jurisdiction in which the event is taking place to purchase tickets to resell to local consumers. Enforcing a price cap on resold tickets on these individuals would be very difficult, and subject-matter experts suggested it would only be possible with industry

compliance, which is not to be taken for granted. An entertainment lawyer with knowledge of the industry suggested that it is possible that resale platforms would argue they are only platforms and therefore are not responsible for the actions of individual buyers. Thus, the actual advancement of consumers' interest would be minimal. The imposition of price caps is a price control mechanism that limits the extent to which the market can operate, and because the price cap is tied to the face value price which is already underprice relative to its market value, the level of imposition is quite high. Prices charged in the secondary market are more reflective of the market value of the ticket, and they are often substantially higher than the face value price. Imposing a price cap is therefore a major restriction on economic efficiency, and could lead to the creation of a black market.

The data indicate that the imposition of price caps would receive widespread public support from a public who views prices being charged in the resale market as being too high. Industry stakeholders in Ontario have been highly critical of this approach and it is expected this approach would garner little acceptance in British Columbia as well. Given that the price cap is a percentage tied to the face value of the ticket, developing this approach is relatively uncomplex and, as a form of prescriptive rule making, would be well matched to the existing regulatory structure in BC.

8.3.2. Cooldown Periods

The cooldown periods approach increases consumer protection by giving local consumers a window in which they have a chance to purchase tickets at face value. This option does not prohibit for-profit resale, and resellers who purchase tickets with the intent to resell tickets for-profit who meet the cooldown period requirements may still do so; thus, there is still an avenue for rent-seeking behaviour to occur at the expense of consumers. However, by creating a window in which local consumers are better able to purchase tickets in the primary market, this approach recognizes the impacts technological changes have had on the for-profit resale market and recreates some of the local dynamics that existed prior to these changes. Data from Saskatchewan indicates that the enforcement burden on the state is minimal; compliance is mainly achieved through self-compliance with the regulation by primary vendors, and state actors monitor primary and secondary ticket platforms during the cooldown periods looking for tickets that are made available for resale prior to the period expiring. After the

periods expire the enforcement burden on the state is eliminated and compliance is no longer required. By targeting the initial allocation of tickets in the primary market and then allowing the secondary market to provide resale services, this option would effectively advance consumer protection to a moderate extent. This option imposes little restrictions on economic efficiency because once the resale cooldown period has expired, for-profit resale may occur in the secondary market at a price to be agreed upon by consumers and ticket resellers.

The cooldown periods approach is expected to receive only moderate support from the public. While this option addresses the core concept of fairness, the quantitative data shows Canadians are looking for more restrictive conditions to be placed on the resale market. Data from Saskatchewan indicates that industry stakeholders have been largely accepting of the cooldowns approach, and a similar level of acceptance is expected in British Columbia. Designing and implementing this approach would be moderately complex and would involve establishing prescriptive criteria determining which types of concerts the cooldown periods apply too. The existing command and control regulatory structure is also partially mismatched to the regulatory problem being addressed. Evidence from Saskatchewan suggests that it is reasonable for state actors to enforce this option because compliance is mainly achieved by stakeholders complying with the prescriptive rules. CPBC would be able to monitor licensees, and have the authority to impose punitive measures if a licensee was deemed to be in non-compliance with the act. As well, the nature of the cooldown periods limits the periods in which CPBC is responsible for enforcing the regulations, because once the periods have passed for-profit resale is no longer subject to regulations above and beyond normal consumer protection legislation. However, designing a distributed structural model that involves stakeholders directly in the regulatory framework would result in a more coherent model as it would allow the state and industry to share information and collaborate to achieve higher levels of compliance.

8.3.3. Disclosure Requirements

This policy option enhances consumer protection by lessening the information asymmetry between consumers and primary vendors. Economic literature suggests that primary sellers use their market power to price discriminate and induce socially-derived demand to promote consumption. Qualitative data suggests that if consumers

possessed more information about the number and distribution method of tickets, they would be in a position to make better purchasing decisions in the primary market and avoid making costly decisions in the resale market. However, this tool is unlikely to change the number of tickets that end up for resale on the secondary market, because it doesn't prevent other for-profit resellers from accessing the tickets in the primary market. Qualitative data analysis of the Saskatchewan experience indicates that this option is enforceable because it prescribes specific duties upon primary vendors that are easy for the government to monitor for non-compliance. Thus, this option would moderately improve consumer protection in the for-profit resale market. Forcing primary sellers to disclose the number of tickets available and the distribution method of those tickets represents a significant limitation on the operation of the ticket market, as it imposes strict conditions on primary sellers and forces them to reveal market strategies that they otherwise would not disclose.

Imposing disclosure requirements would receive moderate public support, as evidenced by the results of the Ontario consultation. However, the experience of Ontario and Saskatchewan indicate that disclosure provisions would face significant stakeholder pushback, as industry has argued strongly that such provisions could harm artists by making their concerts appear less popular if they weren't selling out. While both jurisdictions contemplated disclosure provisions, neither government has yet brought these provisions into force following stakeholder criticism. Disclosure requirements force the primary sellers to disclose ticketing numbers they have access to so drafting these rules is relatively straightforward, but it would require moderate changes to the regulatory design of consumer protection in BC. Disclosure requirements are a form of prescriptive rule that create an obligation for primary sellers that is consistent with the regulatory structure in British Columbia, but is an incoherent mapping of the regulatory problem to tool. If goal of regulation is to advance consumer protection, then the behavioural change desired from regulating in this instance is better defined as a desire to modify the practice of primary vendors in a more socially desirable manner rather than mandating what primary vendors must do regarding the sale of tickets. A distributed model, where the state regulator works with empowered regulatees to modify rather than prohibit a social practice is a more accurate mapping of the regulatory problem to this policy option.

8.3.4. Ticket Diversion Prohibition

Preventing tickets from being diverted from primary sellers to affiliated secondary sellers before they become available to the general public at face value enhances consumer protection by increasing the opportunity for consumers to purchase tickets at a face value price that maximizes their consumer surplus. This option addresses the increasing vertical integration occurring in the ticket market by addressing the incentive primary vendors can have to divert tickets for sale on affiliated resale platforms at prices above face value. Qualitative data analysis suggests enforcing this option would be challenging. While state regulators could monitor the sale of tickets for events covered by the regulation and determine if primary vendors are explicitly directing consumers to resale platforms with which they are affiliated, without having access to internal data regarding the distribution method of tickets, it would be difficult for the state to determine the extent to which tickets are being redirected to affiliated resale platforms. Imposing ticket diversion prohibitions does limit the freedom of markets to operate by preventing primary sellers from taking actions they might otherwise take, but because it does not affect their primary business model or any resale on platforms not associated with the primary vendor responsible for the initial allocation of tickets, this restriction is only moderate.

Prohibiting ticket diversion would be highly popular with the public, who indicated their strong opposition to this practice during the Government of Ontario ticket resale consultation process. Stakeholders are likely to not be in favour of this approach, having argued against it previously in jurisdictions where it has been implemented. Based on legislative examples available, designing and drafting diversion requirements is low on the complexity scale but would entail some modifications to the regulatory design. Diversion requirements are a form of prescriptive rule that create an obligation for primary sellers. This type of rule making is consistent with the regulatory structure in British Columbia, but is incoherent with the type of regulatory structure required. The ticketing information required by diversion provisions is data which the state does not have access without imposing additional information disclosure burdens. A distributed model, where the state regulator works with empowered regulatees to ensure compliance is a more effective regulatory model than a command and control style model.

8.3.5. Ticket Bot Prohibition

Banning the use of bots would leave more tickets available for consumers in the primary market where they have the opportunity to pay face value for the ticket and maximize their consumer surplus. Data suggests that bots have a significantly detrimental impact on consumer surplus, as these programs are able to purchase large amounts of tickets and divert them for resale on the secondary market. However, despite the negative impact bots have on consumer surplus, this option is likely to be ineffective at effectively advancing consumer protection because of challenges with enforcement. Bot technology is complex and evolving, and the state does not readily have access to data on their operation. Even primary vendors, which operate the ticket sale platforms that bots target and already use sophisticated algorithms to ward off these programs, have little success in preventing bots from acquiring tickets for the purposes of for-profit resale. The ability for the state to enforce bot prohibitions is limited, and as a result the likelihood this option will effectively advance consumer protection is low. A prohibition on bots also places minimal constraints on the ticket market because it does not directly distort market prices or interfere with the operation of the primary or secondary market, only the method by which ticket resellers acquire tickets.

A prohibition on the use of ticket bots would receive a high level of support from the public. Evidence from both the quantitative data analysis and the case studies indicate that there is a broad consensus amongst the Canadian public that the use of these programs should be prohibited. This measure would also be well received by stakeholders who have made public statements about the need to stop the use of these bots. Given the rapidly changing pace of technology, developing ticket bot prohibitions is a complex endeavour that would require significant legislative and regulatory development. Prohibiting the usage of bots is a command and control style of regulation that prohibits a social practice. While this approach fits with the regulatory structure in BC, it is not coherent with the regulatory problem being addressed. In addition, primary vendors have publicly stated their desire to eliminate the use of these programs, partly out of their desire to maintain a social license. A decentered regulatory model would better reflect these factors by involving regulatees more directly in the regulatory framework while maintaining the regulatory goal of eliminating the use of ticket bots.

8.3.6. Regulated Market - Evaluation

Table 4 presents the evaluations of the individual policy tools within the regulated market policy sphere. The regulated market option will be constructed out of the highest performing individual policy tools. Any tool that has a total score equal or higher to 12, which represents a medium to high scoring on the scale, will be included in the regulated market option. The results of this evaluation indicate that the tools that will be included in the regulated market option are cooldown periods, ticket diversion prohibitions, and ticket bot prohibitions.

Table 4: Policy Tools

Criteria	Effective Consumer Protection	Efficiency	Public Approval	Stakeholder Acceptance	Complexity
Weight	2	1	1	1	1
Price Caps	2	1	3	1	3
Cooldowns	4	3	2	3	2
Disclosure	4	1	2	1	2
Diversions	4	2	3	2	2
Bot Prohibition	2	3	3	3	1

To arrive at a score for the regulated market option, the scores of the three selected policy tools are averaged to create a composite score. The scorings for the regulated market options and the baseline options are presented in Table 5.

Table 5: Regulated Market and Baseline Options

Criteria	Effective Consumer Protection	Efficiency	Public Approval	Stakeholder Acceptance	Complexity
Weight	2	1	1	1	1
Regulated Market	3.33	2.67	2.67	2.67	1.67
Status Quo	0	3	1	3	3
Prohibition	2	1	2	1	3

8.4. Summary of Policy Evaluation

The preceding policy evaluation highlights the relative strengths and weaknesses of the different options and the trade-offs between them. Overall the options highlighted the challenges associated with regulating the for-profit ticket resale market to large musical events. The total score for each of the options is presented in Table 6. The

highest scoring policy option is the regulated market approach, which includes legislated cooldown periods, prohibitions on ticket diversion, and prohibitions on the use of ticket bot software. This option improves consumer protection, would receive support from both the public and stakeholders, would impose moderate constraints on the market, and requires a moderate level of legislative development. A trade-off with this option is that difficulties with enforcement limit the effectiveness at advancing consumer protection in the for-profit ticket resale market. Ticket resale laws have historically been challenging to enforce in a manner that ensure compliance, and those challenges are growing with the innovation occurring in the primary and secondary markets. However, even when acknowledging the challenge of enforcement, regulating the for-profit resale market is still the preferred approach in consideration of the trade-offs that government must consider when developing public policy.

Table 6: Policy Evaluation Total Scores

Policy Options	Total Score
Status Quo	10
Prohibition	9
Regulated Market	13

Chapter 9.

The Finale: Recommendation and Conclusion

9.1. Recommendation

The current state of the for-profit resale market for tickets to large musical events presents an opportunity for the Government of BC to act to protect British Columbians from unfair business practices. This study contributes to the ongoing policy discussion surrounding for-profit ticket resale to large musical events by presenting recommendations that highlight the manner by which the Government of BC could best address this important policy issue. Through a literature review, qualitative and quantitative analyses, and case study reviews, this capstone examines the for-profit ticket resale market and the policy choices Canadian jurisdictions have taken to address the challenges associated with for-profit resale. From this research base, policy options were derived from the experiences of Ontario, Saskatchewan, and Manitoba, and evaluated to determine the recommended policy option for British Columbia.

In considering the implementation of the recommended approach, this capstone recommends that the regulated market option be implemented in two phases, with the more readily enforceable provisions introduced first and the more complex options developed over a longer time span. Such an approach would enable the government to immediately act in a way that effectively protects consumers from unfair business practices, while at the same time avoiding potential blowback from the public by moving too fast and attempting to regulate practices that the state is currently ill-equipped to do. In the first phase, the Government of BC should:

- introduce legislated cooldown periods that give British Columbians a fair chance to purchase tickets in the primary market; and
- prohibit the diversion of tickets from primary sellers to affiliated secondary sellers.

These short-term recommendations address the policy problem in several important ways. Legislated cooldown periods give British Columbians a fair chance to purchase tickets in the primary market, momentarily recreating the local dynamic in ticket markets, and preventing the diversion of tickets between primary and affiliated

secondary sellers protects consumers from unfair business practices that result from an integrated marketplace. As well, because these options are moderately enforceable within the current regulatory framework, these two policy tools would effectively improve consumer protection in British Columbia in the short-term.

In the long-term, this capstone recommends that the Government of BC:

- prohibit the use of ticket bot programs that circumvent equitable ticket purchasing procedures.

The analysis conducted in this capstone clearly showed that the use of ticket bot software is fundamentally altering the for-profit resale market in a way that disadvantages consumers, and that regulating the use of these programs is in the public interest; however, this analysis also showed that regulating this practice is very difficult. The operation of ticket bots is complex, and even primary vendors who already try and limit the ability of these bots to acquire tickets have only limited success. Effectively regulating the use of ticket bots will involve developing new expertise within government and possibly redefining the role industry stakeholders play in the regulatory framework. Thus, rather than immediately banning the use of ticket bots, it is recommended that the Government of BC begin the long-term process of working with industry stakeholders to identify the most effective means by which to prohibit the use of ticket bots.

9.2. Conclusion

This capstone analyzed the for-profit resale market for large musical event tickets in British Columbia, and in doing so this capstone is one of the first studies to focus specifically on the province of British Columbia. With the Government of BC considering regulatory action in this policy area, this capstone represents a valuable and timely contribution to the public discourse.

Through a survey of relevant academic literature, this capstone examined the economic factors at the foundation of the for-profit resale market. Tickets are a perishable economic good that are subject to imperfect price discrimination and underpricing. These frictions provide an opportunity for for-profit resale to occur in the secondary market, which increases allocative efficiency at the cost of diverting economic surplus that previously accrued to consumers to resellers. Industry integration and

technological change have lowered the transaction costs in the market which has further impacted the welfare dynamic. Regulating the ticket market to promote consumer protection requires coherent regulatory structures in order to be successful.

Analyzing the data collected in the case studies, the semi-structured interviews, and the public opinion figures highlighted several key trends. The base case scenario is an unregulated for-profit ticket resale market, which differs from the approaches taken by the governments of Ontario, Saskatchewan, and Manitoba. Each of these governments took a different approach to regulating the for-profit resale market, which presented an opportunity to learn from the experiences of these jurisdictions. The semi-structured interviews with subject-matter experts provided insight into the for-profit resale market. While there was no consensus regarding the role of government regulation, the goal of promoting fairness was a common theme. In particular, the challenges associated with ticket bots were raised. These computer programs are fundamentally altering the ticket market and addressing this challenge is a key concern. The public opinion data indicated that there is a strong consensus amongst Canadians on the issue of for-profit ticket resale. Over 80% of Canadians believe that for-profit resale is unfair, and the Canadians who support government intervention in this field are those with the highest level of engagement in the ticket market.

Drawing from this data analysis, I proposed three policy options and five evaluation criteria. Each of the three options, status quo, prohibition, and regulated market—were evaluated against the criteria which highlighted the trade-offs associated with each option. The prohibition option preformed the poorest, primarily as a result of its low impact on effectively protecting consumers, the high restriction it places on market operations, and the high level of opposition it would receive from stakeholders. The status quo approach of leaving the market unregulated preformed moderately well. While it does not address consumer protection, it enables the market to operate freely and would receive the support of key stakeholders. As well, the status quo avoids the challenges associated with enforcing ticket resale laws. The option that preformed the best was the regulated market option, which involves introducing cooldown periods in the primary market, preventing ticket diversion between primary and affiliated secondary sellers, and prohibiting the use of ticket bots.

Based on this evaluation, I recommended that the regulated market option be implemented in two phases. Introducing cooldown periods and prohibiting ticket diversion would effectively advance consumer protection in BC in the short-term, and developing the necessary expertise and exploring different regulatory structures that involve stakeholders are ways the government can work towards the long-term recommendation of prohibiting the use of ticket bots.

9.2.1. Further Research Considerations

During the research process, I discovered several aspects of the for-profit ticket resale market that warrant consideration for further research. First, this study focused on the for-profit resale market for large musical events; analyzing the for-profit resale market for sporting events would broaden the understanding of the for-profit resale market for entertainment events in British Columbia. Another consideration is that, despite repeated attempts, I was unable to directly interact with stakeholders in this policy area. The for-profit ticket resale market is characterized by influential stakeholders that possess specialized knowledge of the ticket market, and future research that includes the direct participation of industry stakeholders would contribute to the knowledge base on this subject.

9.2.2. Concluding Statement

Throughout this research process, I learned a great deal about the for-profit ticket resale market; and, there are two aspects in particular that I'd like to highlight. First, while for-profit ticket resale is a policy issue that is not as critical to society as other issues such as healthcare or public safety, addressing the problems associated with for-profit ticket resale still advances the public good. It is an issue Canadians are undeniably passionate about, primarily because of the perceived unfairness associated with for-profit resale. Protecting consumers from unfair business practices is an important government function, and while attending a concert at BC Place may be a luxury, ensuring fairness in the ticket market provides British Columbians with a better chance of being able to see the events they wish to attend. Second, for-profit ticket resale is also an issue that is difficult to regulate. However, as I was told repeatedly throughout the interview process, just because it is difficult to regulate does not by itself mean that there should be no regulation. With the changes happening in ticket markets, primarily the

advent of technologies such as ticket bots, enforcement is becoming more challenging, not less. Finding policy solutions that advance the protection of consumers from unfair business practices while acknowledging the limitations of state-based regulations, as this capstone has done, is critical to making the ticket market a fairer place for consumers in British Columbia.

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Appendix A.

Interview Guide

Theme	Example Questions
Relationship to Ticket Resale Market	How does your work relate to the for-profit ticket resale market?
Causes of ticket resale market	What do you think are the major causes of the for-profit ticket resale market?
Impacts of Ticket Resale	What do you think are the impacts of the for-profit ticket resale market for the public and for businesses? Are they positive or negative, and why?
Ticket Resale Action	Do you think that it is appropriate for governments to step in and regulate the for-profit ticket resale market? If you don't think it is appropriate for government to act in this market, is there another body you think should? Or should the for-profit ticket resale market be left alone?
Test Policy Options	What are the features of well-designed for-profit ticket resale legislation? What are the features of poorly-designed for-profit ticket resale legislation?
Final Thoughts	Are there any final comments you would like to make about the for-profit ticket resale market? Please feel free to pass my contact information along to any other individuals who may be interested in participating in this study.

Appendix B.

Brief Legislative Histories of Ticket Resale Laws in Select Jurisdictions

Ontario

The Government of Ontario has made several legislative efforts to regulate for-profit ticket resale in the province. In 1990, the *Ticket Speculation Act* stated that every person who sells a ticket at a price higher than the face value of the ticket, or who purchases tickets with the intention of reselling the tickets for profit, is guilty of an offence and faces upon conviction a maximum fine of \$5,000 (Government of Ontario, 1990). This approach had limited success, and as a result, amendments to the Act were made in 2015 that included provisions allowing tickets to be resold above face value when there is a money-back guarantee (Government of Ontario, 2015). These changes legalized ticket resale subject to specific conditions and refocused the Act on preventing ticket fraud by protecting consumers from fraudulent tickets. However, following public uproar over the unavailability of tickets to high profile shows such as the Tragically Hip (The Canadian Press, 2017), the Government on Ontario announced it was again looking to crack down on for-profit ticket resale and launched a public consultation process (Evans, 2017). Three major themes that emerged from the consultation were that the public believed bots have unfair access to the ticket stock, that prices on the resale market are unaffordable, and that there needs to be greater transparent on behalf of the primary sellers, particularly over the face value of tickets (Government of Ontario, 2017). The findings of the consultation are reflected in the Government of Ontario's newest ticket resale approach.

Saskatchewan

The Government of Saskatchewan regulates the for-profit resale market through the legislative measures contained in the *Ticket Sales Act* and its accompanying regulations. The Government began to consider regulating the for-profit ticket resale market following significant consumer backlash over a sold out concert and alleged price gouging by resellers (Burton, 2008). Of particular concern to the Government was the

relationship between primary and secondary vendors, primarily Ticketmaster and TicketsNow. At the time, Ticketmaster was contesting a class-action lawsuit that alleged it conspired to sell tickets at a higher price by redirecting consumers to the secondary reseller TicketsNow (Infantry, 2012),¹ and the Saskatchewan Justice Minister stated that preventing collusion between the primary markets and secondary markets was a key concern (Graham, 2009). The Government introduced legislation to regulate the ticket resale market in 2009, and the *Ticket Sales Act* came into force in 2011.

Manitoba

The Government of Manitoba has legislation regulating the for-profit ticket resale market for nearly a century. Introduced in 1920, the *Amusements Act* contains a provision that outlaws for-profit ticket resale in the province (Kubinec, 2015). The publicly available legislative history of the *Act* is limited, as the Bill was passed nearly a century ago, but insights from the experience in the United States provide a proxy through which the general atmosphere towards scalping at the time can be estimated. At the turn of the 20th century ticket resale was commonplace in large American cities such as New York, and the public pulled no punches when it came to voicing their displeasure with the situation (Segrave, 2006). Tensions between resellers and consumers at times culminated in fistfights, riots, or verbal assaults against resellers in the city “most infested with theatre ticket speculators” (Segrave, 2006, 38). Public calls for prohibitions on ticket resale were common (Segrave, 2006). The New York experience with the ticket resale market is illustrative, and while the market for tickets to entertainment events in Manitoba was undoubtedly smaller than the market in New York at the time, ticket reselling was still prevalent. Ticket resale was commonplace at hockey games (Mott, 2002), creating the potential for the same dynamic to exist between the public and resellers. It was in this environment that the provision prohibiting ticket resale of the *Amusements Act* was drafted.

¹ While denying it was liable for any of the charges levied against it in the class-action suit (Infantry, 2012), Ticketmaster did eventually settle and offer a refund to Canadians subject to prescribed conditions (Branch MacMaster LLP, 2012).