The Folly of Anti-Scalping Laws

Stephen K. Happel and Marianne M. Jennings

One of the basic principles in economics is that competititve markets generate price movements to bring quantities demanded into balance with quantities supplied so that queues will be quickly eliminated. Lines, therefore, are troubling to economists, especially when the lines appear repeatedly in what seem to be nonregulated markets. Why are price increases not more forthcoming?

Natural disasters create one such situation. Essentials like water are sold at "below-market" prices immediately after the disaster, as evidenced by long lines of consumers. A completely free-market solution would be to have many different firms supplying water at prices the market will bear. However, perceptions of fairness are so strong in natural disasters that price gouging is either illegal or heavily criticized by most consumers. Charging what the market will bear in the short run generates extremely adverse "moral effects" (Akerlof 1984) or "reputation effects" (Klein and Leffler 1981) in the long run. Because of consumer perceptions about fairness and moral treatment, below-market pricing continues—and queues remain for some time.

Another situation of persistent lines and strong feelings about equity is entertainment events such as major concerts or big-time sport championships. Well-known performers and certain games repeatedly have people lining up for tickets for the right to attend the live, one-time interactions. Again, why do promoters not raise prices at the time tickets first go on sale to prevent long lines? Are the lines rational in a market sense, helping to ration a scarce commodity? Further, why do many promoters and certain consumers become so outraged by the attempt to clear markets through ticket scalping? Currently

Cato Journal, Vol. 15, No. 1 (Spring/Summer 1995).

Stephen K. Happel is Professor of Economics and Marianne M. Jennings is Professor of Legal and Ethical Studies at Arizona State University. The authors are indebted to Roger Faith for his insights, Todd Coleman and James Busby for their research, and William Niskanen for comments at critical points in the paper.

26 states, the District of Columbia, and most sports-league municipalities in the United States have some form of anti-scalping regulation, and three-quarters of the U.S. population resides in those locales. (See Table 1 for the states and cities involved.)

This paper examines the nature of major entertainment events, reviews the evolution of scalping statutes since 1918, describes various schemes for allocating tickets, considers the winners and losers in each scheme, and suggests some ideas about possible future scalping laws based on market principles.

The Nature of Entertainment Events

Entertainment events occur in specific locations at specific times. Such events include county fairs, open-air dances, and other situations in which the notion of capacity is relatively fluid. However, the focus in this paper is on events that take place in a concert hall, amphitheater, or stadium with a fixed seating capacity. Consequently, demand is the prime determinant of price. For such events, promoters or team owners must sell tickets in advance with a printed face value, much like firms issuing common stock with a par value or a contract being sold in a futures market. Most critically, the events have a quality of uniqueness, such as a one-time concert appearance or a once-per-year rival football game.

Consumer Behavior

Consumers enjoy those unique, limited-seating, live events in part because of the performance on stage or on the field. There is something intriguing about observing the action firsthand. Some consumers may not even care whether anyone else is present. For them the thrill of the live performance is enough.

Other consumers, however, want more. Along with the performance itself, they want the ambience that comes from being part of a group. They like shared experiences such as doing the wave, lighting candles, or yelling at players or performers. The idea that group actions affect individual consumption behavior can be traced to the notions of Thornstein Veblen, snob appeal, and bandwagon effects (Leibenstein 1950). Recently, Roger Faith and Stephen Happel (1989) coined the term "mob goods" to describe concerts and sporting events in which expected attendance strongly influences demand by consumers.

The mob effect, or perhaps more appropriately the crowd effect, as suggested by Lawrence Ritter in reading an early draft of this paper, is crucial to understanding ticket scalping and related pricing behavior.[1] The crowd effect makes each event unique. There can never be duplication of an event with the same crowd even if essentially the same performance occurs. The ambience exists at the moment. The uniqueness, in turn, means that special memories are created for consumers. The memories can be drawn on over and over again, for example as consumers think about their first Super Bowl, World Series, or NBA finals.

The uniqueness and related memories explain why some consumers feel so strongly about attending such events and having "fair" access to tickets. Certain consumers are willing to wait in line because they believe that selling seats first-come, first-served at the printed face value of a ticket represents the best way to ration scarce seats. They trade their time in line for the money saved from having to pay a higher price. Further, they even may derive utility from the queue itself. There can be a crowd effect from waiting with a certain group of people, and anticipation may be heightened through the time spent in line. Lines seem perfectly rational to such consumers, and they detest the thought of paying any amount above the printed face value.

Producer Behavior

Producers, team owners, and concert promoters are profit maximizers. They have a certain degree of monopoly power for an event because of its uniqueness. In addition, they may exercise considerable monopoly power over selected seat locations because some locations (front-row center, club seats, suites) are preferred to others. Given this monopoly power, producers want to charge what the market will bear and to engage in price discrimination whenever possible.

At the same time, producers typically want sellouts. One reason for the full capacity desire centers on the demand dynamics associated with the crowd effect. The perception that an event will be a sellout attracts consumers into the ticket market who would not attend otherwise, and the ambience from a sellout may intensify the demand by consumers for future events. A second reason for promoter desire for a sellout is to maximize complementary revenues from parking, refreshments, and souvenir sales at the stadium or concert hall. There is also an important cost element. Typically, the marginal costs associ-

[1]Stephen Happel and Marianne Jennings (1989) began with the notion of mob goods in providing reasons for low prices by promoters and in looking at general problems with the regulation of scalping. Gary Becker (1991) also assumed that demand is positively related to quantities demanded by other consumers to provide insights into pricing by successful restaurants, plays, and sporting events characterized by persistent excess demand. Roger Faith and Allan DeSerpa (forthcoming) focused on the idea of crowd reaction/noise in a further elaboration of mob goods, equilibrium queues, and welfare effects of ticket scalping.

TABLE 1

ANTI-SCALPING REGULATION: STATE AND MUNICIPAL LEVEL

Form of Regulation	States Adopting	Municipalities Adopting[a]
Limits on resale price (include such limits as $1 above printed price; $3 service charge; percentage limitations)	Arkansas, California, Connecticut, Florida, Kentucky, Maryland, New York, Pennsylvania, Rhode Island, Tennessee, Wisconsin	Washington, D.C.
Owner/promoter authorization for resale above printed ticket price	Arizona, Connecticut, Michigan, Minnesota, Missouri, North Carolina	Ann Arbor, Atlanta, Detroit, Edmonton, Portland, Virginia Beach
Location restrictions on scalping (no sales at event site, on state property)	Arizona, California	Anaheim, Arlington, Atlanta, Chicago, Cincinnati, Dallas, Edmonton, Milwaukee, Washington, D.C.
Ticket sales and resales limited to printed price	Louisiana, Maryland	Anaheim, Ann Arbor, Atlanta, Baltimore, Denver, Edmonton, Green Bay, Joliet, Kansas City, Los Angeles, Seattle, St. Louis

Scalping prohibited only in certain events (e.g., athletics)	Georgia, New Mexico, South Carolina	Baltimore, Calgary, Cincinnati, Milwaukee, Minneapolis, New York, Washington, D.C.
Broker licensing	Alabama, Illinois, Massachusetts, New Jersey	Atlanta, Seattle, Virginia Beach
Municipalities to regulate	South Dakota, Virginia	
Charity/nonprofit exceptions for resale	Louisiana, Virginia	

[a]Those cities listed in more than one category have anti-scalping ordinances with multiple components. For example, Atlanta prohibits sales in excess of the printed ticket price unless such resales are for charity or are authorized by the owner or promoter. Further, Atlanta prohibits all resales of tickets within 20 feet of the event.

ated with additional attendees, after basic maintenance and staffing expenses are covered, are low until capacity is reached.

Promoter desire for a sellout often is combined with a preference about the mix of consumers actually attending the event. Owners and promoters may want true fans in the seats, or they may want to create a particular atmosphere, for instance an event for the entire family (Nager 1985). Creating a situation where not only the rich and powerful receive all the tickets generates positive morale effects. So producers often may want to control who among the public is buying tickets.

While producers have a degree of monopoly power, market and regulatory constraints limit firm behavior with respect to ticket pricing. Market constraints exist because fans can quickly lose interest in teams or artists whose performances do not meet expectations or who create perceptions of price gouging. Groups and performers go quickly from being "in" to being "out." Both event attendance and complementary sales suffer as a result. Legal constraints include a multitude of state and local statutes prohibiting resale of tickets above face value or at given locations. Major sports franchises are prohibited by league rules from charging above a stipulated price for various seat designations, raising or lowering the per-game printed price of the ticket once they are set for the season, and actively engaging in ticket scalping.

Faced with market and legal constraints, producers may purposely set the price of certain seats low (often general admission) to induce a line. The low price signals consumers that there will be likely significant demand for tickets and that the event will be well-attended or sold out. Producers recognize that sizable numbers of consumers are willing to trade time in line for money to acquire tickets and that many of those consumers are strong fans whose support is needed for ongoing profits.

At the same time, producers may try to increase returns in selected seats through the widespread phenomenon of "holds." Holds are the better seats kept back by producers from the public when general admission seats go on sale. Lines for the general admission seats can be used to determine the market value of the holds as separate from their printed face value. If the line is lengthy, then producers may request special favors from radio stations, local politicians, or other influential individuals as they are "given" tickets. Or producers may decide to sell the holds directly to ticket brokers if the market price becomes significant.

From both the producers' and consumers' perspectives, then, lines are rational for reasons not present in traditional demand models. In the case of high-demand, limited capacity events, lines do not necessarily represent miscalculations or errors in judgment. Instead, they are a rational part of a market structured around the importance of a queue.

Ticket Scalping and Legal Responses

A secondary market for high-demand, limited-seating-event tickets always exists and creates the opportunity for ticket scalping. Ticket scalping is most frequently defined as buying (tickets) for later sale at higher than normal prices. "Buying for later sale" points to a third set of agents in the market along with consumers and producers. "Higher" is based on the often-held perception that tickets are resold only for more than was paid, but scalping in the broadest sense also encompasses the resale of tickets for less than paid. "Normal" harkens back to the notion that printed face value is the norm.

The secondary market occurs because seats are sold in advance of events. When a line is expected, ticket scalpers are present because time may not be a readily available commodity for some purchasers. Those buyers would prefer to pay with more money. Typically, those consumers have a high opportunity cost of time and view scalping as a legitimate market exercise. Scalpers are simply time brokers who perform a useful service.

However, it is crucial to recognize that even when a line is not expected when tickets first go on sale, either because an event is not a sellout or because the printed face value clears the market perfectly and a sellout is achieved, scalping is inevitable. Some consumers with tickets will decide not to attend. They want to get rid of their tickets. Others are in the market for (good) seats up to the time of the event. Reallocation is the natural outcome.

Producers, while wary of the process, must accept reallocation in some form. If the consumers who initially purchased the tickets from producers had to occupy seats or let them go empty, the advance demand for seats would drop considerably. Accordingly, producers accept "giving away" tickets to relatives, friends, or business acquaintances, and they generally see resale at printed face value for sellouts as "fair." But they dislike nonregulated scalpers for a number of reasons. When excess capacity exists and scalpers are outside the stadium selling tickets below face value, producers complain about the loss of revenue from the seats they are offering for sale at the box office that are going unsold because consumers are buying seats from scalpers. When tickets are sold by scalpers well above face value, producers complain about receiving none of the profit. And when scalpers are loud or aggressive, producers complain about nuisance effects.

Jerry Colangelo, president of the Phoenix Suns, spoke to a group of students at Arizona State University and indicated that he disliked scalpers because "they made money off of him without his permission, and that was not right." He also did not want the problems associated with counterfeit seats sold by scalpers or fans being hassled coming to the game. Finally, he pointed to the fact that he paid taxes while scalpers did not.

The first legislative controls on unfair pricing practices were found in the Sherman and Clayton Acts (which in general terms controlled price fixing, tying contracts, etc.). The first legislation in the United States that focused specifically on ticket scalping appeared in 1918 in response to limited-access stage shows.[2] Then, with the rise in popularity of college football and major league baseball, large stadiums were built. Events like in-state rivalries and the World Series had fans lining up for blocks well before World War II.

The growth of population and per-capita income after World War II further intensified the demand for in-state rivalries, the World Series, and other such events. Accompanying this rise in popularity was an increase in season tickets. More season ticket holders means that fewer good seats are being sold on a per-game basis and that there are more event conflicts for consumers, resulting in a desire on their part to sell off tickets for certain games or shows. The impact is an increase in scalping along with more insider trading in which box-office employees take tickets (for good seats) and resell them at a substantial profit.

Regulation of ticket scalping has evolved and continues to be refined among the various states and municipalities. The first generation of anti-scalping statutes began by trying to curb the "small-time" activities of on-site scalpers. At both the state and local level, laws were passed to prohibit the resale of tickets above face value (with perhaps a nominal service fee), outlaw scalping on public property or within a certain distance of the event site, and require a license (see Table 1 for a listing of the types of anti-scalping regulations). A sizable number of statutes appear to have been passed to try to limit nuisance effects. But, in many cases, the effects went beyond on-site impacts, and in some instances, producers who were trying to protect profits played a prominent role in obtaining passage of regulations. All the early statutes made scalping a misdemeanor with fines, possible jail sentences, and confiscation.

The first generation of scalping laws continued as the primary form of regulation through the 1970s as legislative bodies tried to control

[2]People *ex rel.* Cort Theater Co. I.C. Thompson, 283 sel. 87, 119 N.E. 41 (1918).

price, location, and nuisance effects. Changes in regulations included increasing fines and jail sentences, and some localities turned scalping into a felony rather than a misdemeanor. Yet enforcement of all types of regulations remained sporadic and arbitrary. Large numbers of police officers were needed at major events to round up on-site scalpers. But it was difficult to prosecute scalpers because most people purchasing tickets from scalpers saw no reason to testify against them.

Over the past decade a second generation of scalping laws has emerged that carefully segments scalpers on the street from ticket brokers or agents operating on the behalf of producers (see Table 2). Some states and municipalities have modified first-generation prohibitions and now permit licensed brokers to operate and to charge a price that reflects their cost of acquiring tickets. Some statutes have legalized producers giving permission to their selected agents to sell seats above face value and on site. The second generation of scalping laws has brought the resale market closer to a purely competitive situation.

Nevertheless, unregulated freelance scalping at the event is still illegal in most population centers. While enforcement remains

TABLE 2

SECOND GENERATION REGULATION: STATES AND MUNICIPALITIES PERMITTING RESALE

Form of Regulation	States Adopting[a]	Municipalities Adopting
Owner permission	Arizona, California, Connecticut, Kentucky, Michigan, Minnesota, Missouri, New Mexico, North Carolina	Ann Arbor, Atlanta, Detroit, Edmonton, Portland, Virginia Beach
Ticket brokers permitted	Florida, Illinois, Massachusetts, New Jersey	Baltimore, Calgary, Cincinnati, Milwaukee, Minneapolis, New York, Washington, D.C.

[a]The earliest of the second-generation regulations was that of Connecticut, passed in 1983. The remaining states passed their new forms of regulation after 1988, with the majority passing the changes in 1990 or later.

sporadic and results in few convictions, there is something quite troublesome from a free-market perspective about restricting resale activities just before an event. The essence of the market for those types of limited-seating, one-time events is their here-and-now nature. The time when the greatest fluctuation in price is often most necessary is immediately before an event so that those who most want to attend and are most willing to pay can indeed get access.

Ticket Allocation Schemes

The most simplistic allocation scheme for an event is to have reserved seats go on sale at one box office location at one price starting on a given date. For example, in their national tour in 1989, the Rolling Stones charged the same price for all seats at all their concerts, and those seats were reserved. (If seats are not reserved seating, when purchased, then another line will develop at the time of the event as ticket holders jostle for the best seats; and given the safety difficulties with stampeding and trampling, most big time events have reserved seating.) Refinements on that scheme include having more than one box-office location and permitting phone orders in addition to on-site purchases.

Such an allocation scheme creates queues for major events. Scalpers or brokers will hire "diggers" or "droids" to stand in line or to make repeated phone calls to acquire tickets (Goodman 1991). Consumers who are fanatics or who have a relatively low opportunity cost of time will also be in line. Some will complain about scalpers or brokers squeezing them out of good seats even when restrictions are placed on the number of seats that can be purchased at one time. Some will also complain about related nuisance effects.[3]

Another refinement is to have consumers stand in line to draw a place in another line to buy tickets. Apparently, some producers feel that this scheme will minimize the time people must wait by sending signals about the actual chances of getting tickets. But it often increases the time involved because some people line up very early for the draw line even if the allocation of places is random.

Faced with frequent long lines, producers may charge different prices for various seat locations. One approach is to have two sets of prices; for example, one for general admission and one for select seating. Scalping may be moderated if good seats are priced considerably more than general admission, but it will still occur, and those

[3]Diggers or droids are frequently homeless people or substance abusers who may actually try to drive other people out of line when the number of tickets is restricted per box-office visit.

who can afford to pay the most will often end up with the very best seats.

That last outcome appears especially troublesome to some performers. For example, Bruce Springsteen felt that many of his true fans were not able to attend his concerts in New Jersey because scalpers were driving up prices by using diggers and box-office insider trading to acquire tickets (Bershad and Ensor 1985). Of course, many of his true fans who originally purchased tickets engaged in scalping as the market price went up. The only sure way to guarantee that fans willing to endure a long wait get good seats and actually occupy those seats is to make them go into the event immediately after acquiring a ticket with no chance for a resale. For big events the lines may form days in advance, but ardent consumers will get the best seats.

Recently, the phenomenon of "scaling the house" has become more commonplace (Philips 1991). That pricing format is a method of price discrimination that charges a series of prices for different seat locations to increase profits and to fend off scalpers or brokers. One problem for the producer is to gather sufficient information about demand to charge the right prices. Another problem is that the better seats clearly will go to those with money.

A final scheme that avoids a precise knowledge of demand conditions for all seats at one time is a Dutch auction. That scheme begins by offering all seats at a very high price well in advance of the event and selling them first-come, first-served for a given time (say, a week). Prices then are lowered slightly, and this on-going price adjustment continues up to the time of the event. Scalpers will be present, but they will have to gauge the market more carefully than with one or two sets of prices. In such a setting scalpers may spend much of their time trading at prices below rather than above face value. The problem with the Dutch auction from the producer's perspective remains the public perception that only those who can afford to pay the most are getting into big events.

Future Generation of Scalping Laws

Several economic lessons are clear from our discussion of entertainment events and ticket sales. One is that continued trading of tickets is inevitable up to the time of the event, and so producers must live with the resale market. Another is that producers are often quite sensitive to certain consumers' perceptions of fair treatment in the marketplace. Finally, most producers and sizable numbers of consumers do not like scalpers. Even with the evolution toward legalized brokers and some on-site trading by permission of the producer, unrestricted scalping just prior to the event remains illegal in most locations.[4]

In this type of market, efficiency is sacrificed by regulation because information is being restricted at the very time it could be most beneficial. Consumers who have seats to sell are going to be reluctant to spend a great deal of time gathering price information for fear of legal reprisal. Thus they may sell to scalpers at below what the market is truly willing to bear. The scalpers then turn around and charge high prices to those seeking tickets.

Two points must be addressed before further suggestions are made. The first is whether the purchase of a ticket from a producer represents a licensed contract or a simple futures-like sale. Producers (like the Phoenix Suns) argue that the purchase of a season ticket is a license they have granted and can rescind any time the ticket is sold above face value. Their licensing interpretation serves to inhibit scalpers or brokers and keep them from buying tickets in large amounts for resale. The argument is rejected by market advocates and runs contrary to the notion that a ticket purchase is similar to going long in a futures market, where individuals are rewarded for buying low and selling high.

The second point focuses on the issue of just how much scalpers, through diggers and droids, drive up prices and squeeze true fans out of good seats. If there are some diggers and droids in line, then certain fans will not get the seats they would have preferred; and if the event is a sellout, the scalpers can command higher prices. However, if it is known that scalping activities are widespread and that diggers and droids will descend in mass, then consumers may simply wait to buy tickets. As long as one or few scalpers are not buying all the tickets, this postponement can actually lead to lower prices. Whether there are higher or lower prices depends on the scalpers' collective ability to read the market relative to the producer's ability.

With a desire for market clearing, we now turn to a third generation of scalping regulations. Instead of trying to restrict scalping activities, particularly at the time of an event, scalping activities should be encouraged by having vendors operate in designated areas in booths immediately next to the stadium or concert hall.

To understand the need for this form of market clearing, suppose there are no anti-scalping restrictions. What happens for a major event? Vendors on event day operate in the vicinity of the stadium or concert hall. In some cases the vendor locations may even develop

[4]The last time an anti-scalping ordinance was found unconstitutional was in 1973. See Estell v. Birmingham 286 So. 2d 872 (Ala. 1973).

a sense of permanence, and some vendors may try to build a loyal clientele by establishing a company name.

A significant problem with this approach is the fragmentation of market information. Consumers must shop for price and will not be aware of all vendors in the market without extensive search. Also, there are the specific nuisance effects of people being hassled by scalpers either directly or by the traffic congestion that they can cause. Counterfeiting in such a fragmented market can become a major difficulty if scalpers are elusive.

A similar market-clearing scheme is found at Australian race tracks with touts or bookies. A consumer can place bets either with the track (the on-course totalizator) or with bookies who operate on site. The bookmakers must acquire a government license by paying a fee and undergoing background checks and verification of assets. The number of bookmakers on site may be substantial (25 or more), and they all operate in nearly identical booths. They post prices (odds) continuously, and unlike the track that pays out of the betting pool after the race is computed, bookies take bets at stated odds. Thus a potential wagerer can shop among bookies for the best odds or bet through the house, meaning arbitrage is on-going. At times bookmakers enjoy relatively large returns relative to the house, whereas at other times they suffer significant losses.

Similarly, concentrating scalpers in a designated area means those consumers who wish either to buy or to sell tickets have fewer search costs. Like the bookies, licensed scalpers or brokers could operate in booths. Depending on the broker, bid and ask prices may be posted for general locations (lower level, upper level, end zone), and they may be updated frequently. Two questions remain. What should the licensing requirements be and how are the booths to be allocated?

In licensing, one possibility is to require something analogous to the Australian tracks. Scalpers would have to pay a significant fee and go through detailed background checks. Such an approach makes it relatively easy to have scalpers operate in the designated area, because anyone caught selling tickets on game day outside the designated area would be arrested and fined or jailed, or both, with just cause. Market fragmentation is now minimized, as are nuisance effects. In addition, strict licensing discourages counterfeiting.

But, at the same time, strict licensing creates effective barriers to entry and the possibility of monopolies or cartels. As a result, we reject strict licensing and instead suggest having relatively minor licensing requirements. For example, anyone interested in buying or selling tickets from a booth would simply show valid identification to an enforcement agent. The license would pledge that the person will not trade counterfeit tickets and will quickly settle buyer or seller disputes.

The booths themselves could be auctioned off the day of the event, and the proceeds could be used in a public manner. In the process, economic profits are extracted from scalpers, which seems to make many people happy. However, bidding for booths may cause problems because the number of booths has to be limited to generate profits, and the profits become highly visible. If the profits from bidding fall into the public domain, there are all the attendant problems of disclosure of committee decisions, proper accounting, and the actual creation of public welfare. If the bids fall into the promoters' domain, the public sees conspiracy and insider trading. Only by having free access to the booths in the designated areas is the public generally assured of high degrees of competition.

Therefore, we propose that the booths be randomly assigned on event day at a prearranged time. The designated area needs to be large enough to accommodate a significant number of booths, preferably as many as there are licensed agents who want to trade. When assigned to a booth, an agent could be given special envelopes with the printed booth number to give out to buyers and sellers of tickets as the trades occur. In that way counterfeiting and other shady trading activities could be monitored.

Our proposal of nonrestrictive licensing and open access to booths likely would result in some traders continuing to have a presence in the market while others would be afforded the opportunity to enter markets for a limited number of events. Naturally, there will still be scalpers who will try to trade on street corners away from the designated area. While the police could do periodic sweeps to arrest them, we believe that most consumers would be reluctant to buy from them without the knowledge of the centralized market or for fear of receiving counterfeit tickets.

Similarly, there will be some people at the designated area who will try to sell tickets without a license. We believe that they should be allowed to operate, but consumers buying from them will clearly have no guarantees about counterfeit tickets. Whether there is a large or small number of licensed traders in booths in a particular designated area will depend on the pricing practices of licensed traders and on consumers' preferences for convenience or avoidance of shady trading practices.

Insider Trading

A final issue that must be addressed is insider trading. Public tolerance of scalping at the time of an event stems from the notion that anyone can stand in line (or pay others to do so), acquire tickets, and then charge what the market will bear. However, if the public perceives that promoters are controlling or rigging not only initial sales but also the resale market, or if box-office employees are in league with scalpers to acquire choice seats, reaction is likely to be strong.

The public's concept of a free market traditionally does not cover those who obtain access or information by means not available to everyone. An analogy is the harsh sanctions against insider trading in securities. Anyone can spend the time and money to research a security and the offering company, but not everyone would have access to a lawyer at a firm that handles the company's security offerings. Insider access is the line of demarcation for public policy in free-market regulation. Anyone can spend the time to stand in line for tickets or pay the funds to hire others to do so or run ads seeking tickets, but not everyone can gain access to a promoter or a box-office employee. Regulators thus must respond in some way to the public policy concern of the level playing field perceived to be lost if insider control of the secondary market is permitted.

With strict licensing, a possible means of control would be to require scalpers to disclose all ticket sources. In scalping, competitors and consumer groups might scrutinize sources. With minimal licensing and a large number of booths, as we have suggested, acquiring accurate disclosure forms from all vendors can be difficult. Actual control will depend on the extent to which local authorities are pressured by complaints of insider trading by box-office employees or by promoters. For some jurisdictions, the problem of perceived unfairness with insider trading may not be sufficiently compelling to require legislation or regulation.

Conclusion

Scalping is inevitable as long as there are advance ticket sales for big-time events and fan pressure to keep prices affordable to the general public. Our suggested legislative reforms recognize those market realities and push for legalized scalping at the event site. In most cases, the result of the reforms will be smaller economic profits for scalpers as competitive pressures and greater open-market access reduce the range between bid and ask prices. Through licensing, on-site nuisance effects would be restricted to a given area. Over time, the number of scalpers will be a function of the producer's ability to read the market at the time tickets go on sale and anticipate subsequent changes in consumer desires up to the time of the event.

Of course, many producers and certain consumers will resist the suggested changes. Consumers unwilling to pay higher than face-value prices will continue to complain about the inequities of the secondary market. That is the very time, however, that advocates of price adjustments as the best approach to scarcity must once again point to the folly of anti-scalping laws.

References

Akerlof, G. (1984) "Gift Exchange and Efficiency Wage Theory: Four Views." *American Economic Review* 74: 79–83.

Becker, G. (1991) "A Note on Restaurant Pricing and Other Examples of Social Influences on Price." *Journal of Political Economy* 99: 1109–17.

Bershad, L., and Ensor, R. (1985) "Ticket Scalping Legislation—A New Jersey Case Study." *Seton Hall Legal Journal* 9: 81–135.

Faith, R., and DeSerpa, A. (forthcoming) "Bru-u-u-uce: The Simple Economics of Mob Goods." *Public Choice*.

Faith, R., and Happel. S. (1989) "The More the Merrier: Some Economics of Mob Goods." Paper presented at Public Choice meetings. Orlando, Fla.

Goodman, M. (1991) "The Droids vs. the Straights." *Los Angeles Times*, 10 February: 14–20.

Happel, S., and Jennings, M. (1989) "Assessing the Economic Rationale and Legal Remedies for Ticket Scalping." *Journal of Legislation* 16: 1–14.

Klein, B., and Leffler, K. (1981) "The Role of Market Forces in Assuring Contractual Performance." *Journal of Political Economy* 89: 615–41.

Leibenstein, H. (1950) "Bandwagon, Snob, and Veblen Effects in the Theory of Consumers' Demand." *Quarterly Journal of Economics* 64: 183–207.

Nager, L. (1985) "America's Biggest Ticket Scalper." *Rolling Stone*, 9 May: 9.

Philips, C. (1991) "Ticket Costs Soar Under New Plan." *Los Angeles Times*, 29 May: F1, F6.