Ticket Sales Act, 2017 – Administrative Penalties Proposal

The Ministry of Government and Consumer Services has developed this consultation paper to secure your views on a **proposed framework for** **administrative monetary penalties (AMPs)** under the new Ticket Sales Act, 2017.

The Ticket Sales Act will come into effect July 1, 2018, and will, among other things:

* Help prevent ticket fraud and excessive mark-ups in the resale ticket market, including banning ticket purchasing bots;
* Cap the resale price of tickets at 50 per cent above face value;
* Require ticket businesses to disclose key information to consumers; and
* **Establish new enforcement measures, including AMPs**.

AMPs will be one of a number of compliance and enforcement tools available to the ministry to make sure that persons and ticket businesses follow the rules and ticket buyers are protected.

# How to Respond

Your input on the proposed AMP framework is important. We welcome your answers to the consultation questions and any added input or suggestions you may wish to offer.

The information you provide will be helpful to the ministry in developing regulations on an AMPs framework to support compliance and enforcement of the new ticket sales rules.

This consultation document asks questions where you can respond by checking boxes and providing explanations or alternative options in free-form spaces to express your views.

Please provide concrete examples or evidence to support your suggestions, if you can.

You may download this paper and then submit your completed responses by:

Email: consumerpolicy@ontario.ca

**Or**

Mail: Ticket Sales Act – AMP Regulation Consultation

Ministry of Government and Consumer Services

Policy, Planning and Oversight Division

56 Wellesley Street West, 6th Floor

Toronto, ON, M7A 1C1

Feedback may also be submitted without using the consultation questionnaire.

Please respond no later than **March 21, 2018**.

When responding, please provide your name and contact information, such as an email or postal address.

Name/Organization

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Contact Information

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Please also check a box to indicate whether you comment primarily as a:

[ ] Individual

[ ] Ticket Business

[ ] Person who re-sells tickets purchased from a ticket business

[ ] Event Promoter

[ ] Business Association

[ ] Consumer Rights Association

[ ] Other – You may enter your answer here

Thank you for taking the time to review the proposal. If you have any questions about this consultation, please email consumerpolicy@ontario.ca.

## Privacy Statement

Please note that unless agreed otherwise by the Ministry of Government and Consumer Services, all submissions received from organizations in response to this consultation will be considered public information and may be used, disclosed and published by the ministry to help the ministry in evaluating and revising its proposal. This may involve disclosing any response received to other interested parties.

Please keep in mind that the ministry is subject to the Freedom of Information and Protection of Privacy Act, which gives individuals the general right to access records in the custody or control of the ministry, subject to limited and specific exemptions and exclusions. This would include any input received in response to this consultation.

An individual who provides a response and indicates an affiliation with an organization will be considered to have submitted the response on behalf of that organization.

Responses received from individuals who do not indicate an affiliation with an organization will not be considered to be public information. Responses from individuals may be used and disclosed by the ministry to help evaluate and revise the proposal. The ministry may also publish responses received from individuals. Should it use, disclose or publish individual responses, any personal information, such as an individual's name and contact details, will not be disclosed by the ministry without the individual’s prior consent unless required by law. Contact information you provide may also be used to follow up with you to clarify your response.

If you have any questions about the collection of this information, please contact consumerpolicy@ontario.ca.

# CONTEXT: COMPLIANCE AND ENFORCEMENT TOOLS

The Ministry of Government and Consumer Services (ministry) will have the authority to enforce the following provisions under the Ticket Sales Act, 2017:

* + the cap on the resale price of tickets at 50 per cent above face value
	+ requirements for businesses selling and reselling tickets to disclose certain key information to consumers

The act provides for a number of different compliance and enforcement tools that would be available to the ministry (but excluding issues related to ticket purchasing “bots” - see information on “bots” below). These include:

* **Mediation and complaints resolution** – The ministry will be able to try to mediate a resolution to consumer-business disputes concerning potential violations of the act or regulations.
* **Conduct inspections and investigations** – Inspectors and investigators will be able to carry out inspections and investigations to make sure a person or ticket business follows the rules relating to disclosure and other ticket sales practices.

Inspectors may for example, examine, copy or remove relevant records of a ticket business as part of an inspection and issue an order against a person or ticket business for non-compliance. Investigators may question people who may have evidence relevant to an investigation, enter a building with a search warrant and seize evidence and/or lay charges.

* **Issue orders** –Different orders could be issued against a person or ticket business depending on the situation. For example, a compliance order, a restraining order or an order freezing assets or trust funds can be issued against a ticket business. Orders can be appealed to the Licence Appeal Tribunal.
* **Provincial offences penalties** – The ministry can recommend prosecutions to an independent prosecutor. If a court finds a person guilty of an offence, they could face a fine of up to $50,000 and, potentially, up to two years in prison. A corporation could face a fine of up to $250,000.
* **Administrative monetary penalties (AMPs)** – The ministry will be able to issue specific monetary penalties to ticket businesses who fail to comply with the prescribed rules.

Other enforcement tools under the Act that are independent of the ministry include the following.

Right of Action

* **Industry Right of Action** – A ticket business will be able to take legal action against a person who violated the act or regulations that resulted in the ticket business suffering a loss. For example, a ticket business would be able to take legal action against a ticket bot user.
* **Consumer Right of Action** – A ticket buyer will be able to take legal action against a person who violated the act or regulations that resulted in the ticket buyer suffering a loss.

Ticket Purchasing Bots Enforcement

MGCS will be responsible for enforcing the provisions of the act, but **not** for enforcing any requirements related to ticket purchasing “bots”. Matters related to ticket purchasing bots, including enforcement, will be the responsibility of the Ministry of the Attorney General and would be enforced by police services.

As mentioned above, the focus of this consultation paper is on a proposal for the specific violations under the act for which AMPs could be issued and that the ministry would enforce when the act is in force. Proposed monetary penalty amounts are also included.

# CONTEXT: AMPs FOR TICKET BUSINESSES

AMPs, or administrative monetary penalties, are financial penalties imposed by a regulator for a contravention of an act or regulation. In this case, a ticket business that fails to follow the rules under the Ticket Sales Act, 2017 and its regulations could be issued an AMP.

Under the act, a ticket business means a “primary seller, a secondary seller or an operator of a secondary ticketing platform”. A ticket business could include an event promoter, the owner of a venue that requires tickets for admission, or any agent of these people, a ticket reseller or a website that provides a venue to make tickets available for resale.

The ministry has the authority to issue AMPs against ticket businesses that fail to follow the rules under the act. The ministry cannot set penalty amounts that are more than $10,000 per contravention.

Some of the processes for AMPs that are set out in the act include:

* **When the ticket business pays the AMP** –Once the ticket business pays the AMP amount for a specific violation they cannot be charged for an offence with respect to that same violation, or face other enforcement measures if these are prescribed.
* **When the ticket business fails to pay the AMP** –If the ticket business fails to pay the AMP amount that was ordered, the ministry has the right to file the order with the Superior Court of Justice. That means the AMP will be enforced as if it was a court order.
* **Debt to the Crown** – If the ticket business does not pay the AMP that has been issued against them, it will be considered a debt to the Crown and enforced as such.
* **Right to Appeal** – A ticket business has the right to appeal an AMP order to the Licence Appeal Tribunal (LAT) within 15 days after receiving the order. It will be up to the LAT to allow any extensions of time past the 15 days.

**Please see Part VII – Administrative Penalties of the Ticket Sales Act, 2017 for all the rules and requirements about AMPs.**

## How AMPs work with Other Enforcement Measures

As noted above, an AMP is just one of the enforcement tools the ministry could use to make sure the rules under the act and its regulations are being followed and to protect consumers.

An AMP could be issued for subsequent contraventions of the same provision. An AMP could also be issued alone or with other enforcement measures (for example, orders).

**Responsibility to Know the Rules**

It is the responsibility of persons and ticket businesses to familiarize themselves with the rules under the act and to make sure they comply with all the requirements.

**THE PROPOSED AMPs FRAMEWORK**

Under the Ticket Sales Act, 2017, the ministry can issue AMPs against ticket businesses that do not follow certain provisions of the act or regulations.

**Ticket Sales Act, 2017 - Definitions**

**Ticket business** means a primary seller, a secondary seller or an operator of a secondary ticketing platform.

* More generally, a ticket business includes, a ticket seller, such as an event promoter, the owner of a venue that requires tickets for admission, a ticket reseller or any agent of these people.

**Primary Seller** means a person, other than a secondary seller, who is engaged in the business of making tickets available for sale and includes the owner of the place to which a ticket provides admission, the promoter of the event occurring at that place and any agent of those persons.

**Secondary Seller** means a person who is engaged in the business of making available for sale, tickets that were originally made available for sale by a primary seller.

**Operator of a secondary ticket platform** means a person who owns or controls a secondary ticketing platform.

**Secondary ticketing platform** means a website, online service, electronic application, print publication or physical location that facilitates the sale of tickets by providing ticket sellers, other than primary sellers, with a venue to make their tickets available for sale.

The proposal aims to keep the AMPs framework simple, stream-lined and easy to understand for affected stakeholders and for the ministry to enforce.

# PROPOSED CONTRAVENTIONS AND PENALTY AMOUNTS

## Explanation of the tables:

**Table 1** – sets out contraventions related to tickets sold for more than 50 per cent of their face value.

**Table 2** – sets out contraventions related to disclosure requirements under the act.

**Column 1** – provides the specific proposed provisions of the Ticket Sales Act, 2017 to which an AMP might apply if there is a violation of that provision.

**Column 2** – sets out the penalty amount that would apply when a ticket business that is not incorporated has contravened or is contravening a provision in Column 1.

**Example:** a person, in this case, might be Mr. Jack Seller, an individual who is in the business of buying tickets (a secondary seller) in bulk for popular events with the intention of selling them at a higher price to make a profit.

**Column 3** – sets out the penalty amount that would apply to a corporation who violates each of the provisions in Column 1.

**Example:** a business incorporated in Canada that maintains a website to sell tickets to the general public, either as a primary seller or a secondary seller.

**TABLE 1**

**Item #1: Ticket sold for more than 50 per cent of its face value**

For the contravention listed in Item #1, it is proposed that for each contravention, an AMP may be issued each time a contravention occurs.

In other words, for each ticket that is made available for sale for more than 50 per cent over the face value of the ticket, an AMP can be issued.

**Example:** A ticket business’ website has for sale seven tickets to an event with an advertised resale price of $250. The face value is $100 for each ticket. In this case, seven separate AMPs could be issued to the ticket business.

| **Item** | **Column 1**Ticket Sales Act, 2017 – Contravention | **Column 2**Ticket business (not incorporated) | **Column 3**Ticket business (corporation) |
| --- | --- | --- | --- |
|  | **Description** | **Penalty Amounts** |
| **1** | **Subsection 2(2)** Ticket made available for sale for more than 50 per cent of the ticket’s face value. Including any applicable fees and charges but does not include applicable taxes. | $500, or twice the difference of the face value and the total price of what the ticket was advertised by the seller, whichever is greater to a max of $2,500 | $5000  |

**TABLE 2**

**Items #2 to #11: Contraventions related to disclosure requirements**

For the contraventions listed in items #2 to #11, where there are multiple contraventions of the same provisions at the same time, the contraventions would be treated as a single contravention.

However, if contraventions for the same offence continue beyond seven days from the date on which the AMP was issued, then another AMP could be issued with respect to the contravention of the same provision.

**Example:** a primary seller’s website does not list the maximum capacity for any or all of the 25 events on their website. This would not result in 25 separate AMPs being issued, but would be treated as one offence that could be subject to an AMP.

**Example:** a ticket business website has failed to indicate that several tickets for sale on its website are priced in US dollars. The ticket business is issued a single AMP for all the offences.

Two weeks later, if the website is still not in compliance, another AMP can now be issued, or other progressive enforcement action could be taken.

| **Item** | **Column 1**Ticket Sales Act, 2017 - Contravention  | **Column 2**Ticket business (not incorporated) | **Column 3**Ticket business (corporation) |
| --- | --- | --- | --- |
|  | **Description** | **Penalty Amount** |
| **2** | **Paragraph 1 of Subsection 5(1)** A primary seller failed to publicly disclose, on its website or otherwise, the distribution method of all of the tickets to the event that they will be making available for sale.Including any sale that will occur before tickets are made available for sale to the general public. | $200  | $3000  |
| **3** | **Paragraph 2 of Subsection 5(1)**Before making any tickets to an event available for sale, a primary seller did not publicly disclose, on its website or otherwise, the maximum capacity for the event. | $200  | $3000  |
| **4** | **Clause (a) of Subsection 6(1)** A primary seller, that made a ticket available for sale, did not disclose the total price of the ticket and did not include a separately itemized list of applicable fees, service charges and taxes. | $200 | $3000 |
| **5** | **Clause (b) of Subsection 6(1)** A primary seller, that made a ticket available for sale, did not make sure that the face value of the ticket was printed on or is otherwise displayed on the ticket when it was issued to the ticket purchaser. | $200 | $3000 |
| **6** | **Clause (a) of subsection 6(2)** A secondary seller, that made a ticket available for sale, did not make sure that the offer showed the face value of the ticket and the total price of the ticket. | $300 | $5000 |
| **7** | **Clause (b) of subsection 6(2)** A secondary seller, that made a ticket available for sale, did not ensure that the offer included a separate list of applicable fees, service charges and taxes. | $200 | $3000 |
| **8** | **Clause (a) of subsection 6(3)** An operator of a secondary ticketing platform did not ensure that the offer showed the face value of the ticket and the total price of the ticket. | $300 | $5000 |
| **9** | **Clause (b) of subsection 6(3)** An operator of a secondary ticketing platform did not ensure that the offer included a separate list of any applicable fees service charges and taxes. | $200 | $3000 |
| **10** | **Subsection 7(2)** A ticket business did not ensure that any dollar amounts in the offer are listed in Canadian currency unless the offer shows in a clear, prominent and easy to understand way that a different currency is used. | $300 | $5000 |
| **11** | **Subsection 7(3)** A ticket business did not ensure that the location of the seat or standing area that the ticket entitles the ticket holder to occupy, if applicable, is disclosed in the offer. | $200 | $3000 |

**CONCLUSION**

The proposed AMPs framework outlines the specific rules under the act that, when violated by a ticket business, could result in a monetary penalty. The framework also sets out the monetary penalty amounts.

The ministry would still have other compliance and enforcement tools to use for violations of other rules under the act or that could be used in addition to AMPs.

If an AMPs regulation is made, the ministry will monitor its effectiveness to determine if amendments are required. This may include amending penalty amounts, amending provisions subject to AMPs, and amending the framework for determining when a contravention will result in one or more AMP being issued.

**QUESTIONS**

**Question #1: In general, do you agree with the proposed approach to administrative monetary penalties?**

[ ]  **Yes**

[ ]  **No**

**☐ Other – Please Explain Below**

**Explanation and Additional Comments:**

**You may enter any explanation and additional comments here**

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**Question #2: Do you agree with the proposed contraventions listed in Column 1 of Tables 1 and 2?**

[ ]  **Yes**

[ ]  **No**

[ ]  **Other – Please Explain Below**

**Explanation and Additional Comments:**

**You may enter any explanation and additional comments here**

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**Question #3: Do you agree with the proposed monetary amounts of the administrative monetary penalties?**

[ ]  **Yes**

[ ]  **No**

[ ]  **Other – Please Explain Below**

**Explanation and Additional Comments:**

**You may enter any explanation and additional comments here**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# Any additional comments

Thank you for providing your feedback. Please share any additional comments or suggestions you may have here:

You may enter any explanation and additional comments here

# What Happens Next

The Ministry of Government and Consumer Services will review and analyze comments and suggestions received during the consultation process prior to finalizing the AMPs framework.