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We focus on the potential regulatory liabilities that digital booking and reseller platforms in India are exposed to and identify key measures that would address the risks.

The post-pandemic boom in the entertainment industry has brought focus on booking agents, such as Ticketmaster and BookMyShow that have increasingly become targets of ticket scalping. This issue took center stage in 2022 when Ticketmaster was subject to a slew of litigations owing to glitches on its platform, certain exclusive arrangements with artists, and bots facilitating large scale purchases by resellers that ultimately resulted in scarcity of tickets and an unexplained surge in ticket prices. Fast forward to 2024, and BookMyShow appears to have mirrored Ticketmaster's shortcomings by failing to address ticket scalping of major sports and music events. Owing to this shortfall and a vacuum in regulation in India, reseller platforms, such as Viagogo, have burgeoned in India as the last resort for consumers.

To mount its defense, BookMyShow has disassociated itself from resellers, including Viagogo, as well as tried to come clean by instituting criminal complaints. In turn, while reseller platforms remain unphased, Indian consumers have in parallel instituted criminal complaints against BookMyShow on grounds such as criminal breach of trust, fraud and cheating. Although the outcome of these complaints is unknown at this stage, there exists potential regulatory liabilities against these platforms.

Classification of Ticketing & Reseller Platforms – Is there a Distinction?

The Indian entertainment ticketing industry primarily functions through two models: as 'booking agents' that partner with event organizers to sell tickets exclusively, or as 'direct sellers', where the event organizer offers tickets directly to the end customer. While 'direct sales' are undertaken either through physical or digital outlets (i.e., in each case owned or controlled independently by the event organizer), booking agents, typically operate as platforms that "sells tickets on behalf of event organizers/cinemas and do not control the inventory or its availability and pricing". Having said this, in recent years, a third model, i.e., the 'reseller model', where platforms classifying themselves as "marketplaces that facilitate (and do not themselves

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offer) trade between sellers and buyers" have also gained market share within the entertainment ticketing industry.

Since both booking agents and reseller platforms position themselves as "facilitating" the sale of tickets, either on behalf of the event organizer or "resellers", these platforms place themselves squarely within the scope of the Information Technology (Intermediaries Guidelines and Digital Media Ethics Code) Rules, 2021 ("**Intermediaries Guidelines**") as an intermediary, i.e., an entity offering services on behalf of another digitally. Their independent offerings would also qualify the platform as an 'e-commerce entity' requiring compliance with the (Indian) Consumer Protection Act, 2019 read with its underlying rules (collectively, "**E-Consumer Laws**") and require adherence to Indian data privacy legislations, such as rules and directions issued by the Computer Emergency Response Team ("**CERT-In Rules**").

Operating as an 'Intermediary' / 'E-Commerce Entity' - Double Edged Sword?

The key motivation for any platform to seek 'intermediary' classification is to benefit from safe harbor protection, which shields it from liability under any law in force, including any penal provisions. The benefit of this exemption will not be extended to an intermediary if it: (i) failed to observe its obligations under the Intermediaries Guidelines; (ii) has conspired or abetted or aided or induced, whether by threats, promise or otherwise in the commission of an unlawful act; or (iii) upon *inter-alia* receiving actual knowledge that any information, data or communication link residing in or connected to its computer resource was used to commit an unlawful act, failed to remove or disable access to that material (without vitiating evidence).

Examples of obligations under the Intermediaries Guidelines include ensuring that the platform itself and its users refrain from: (i) impersonating another person (including companies or other juristic entities); (ii) transmitting software virus or other computer codes that interrupt, destroy or limit the functionality of any computer resource; or (iii) misleading the addressee of the origin of a message or intentionally communicate any misinformation. Further, the intermediary must ensure (i) its services meet reasonable standards of due diligence, privacy and transparency; (ii) adoption of appropriate security measures to secure its systems; and (iii) reporting of cyber security incidents within timelines prescribed by the CERT-IN Rules. To demonstrate reasonable security standards are adopted, an intermediary would need to either furnish its data audit reports or security certifications such as ISO 27001. Similarly, if a cyber security incident is alleged, such as unauthorized access to IT systems, such breach is required to be reported within 6 hours of noticing such incident.

Separately, under E-Consumer Laws, these platforms must ensure that restrictive trade practices or unlawful trade practices is not facilitated, such as "*permitting the hoarding of goods, or refusal to sell goods or to make them available for sale or to provide any service, if such hoarding, destruction or refusal raises or tends to raise the cost of those or other similar goods or services*". Failure to adhere to such requirements provides the consumer and central consumer protection authority the locus to initiate complaints/proceedings that can result in *inter-alia* the withdrawal of services, reimbursement of costs and restriction of an unfair trade practice.

What can Digital Booking Agents & Reseller Platforms do Differently?

Given that there is limited distinction between the operations of digital booking agents and reseller platforms, to mitigate the risk of liability, each of these platforms may need to revisit the measures adopted to offer tickets to end consumers.

For consumers, booking agents and resellers could implement verification processes to identify entities accessing and trading on the platform. These verification processes would ensure that third parties, including employees, are not impersonating genuine buyers or sellers. Additionally, details pertaining to the event organizer and/or reseller offering the service, including steps for recourse in case of deficiency in service should be made easily available to the end user. Specifically in case of reseller platforms, steps such as: (i) publishing necessary representations clarifying to end users the implications of a purchase from the secondary market would imply *inter-alia* recourse being limited to the reseller rather than the event organizer; (ii) demonstrating the break-up in price of the ticket, between the service fee to the platform, original price of purchase and cost charged by the independent reseller; and (iii) instituting speedy grievance redressal mechanisms to address the deficiency in service not just by the digital reseller platform but also on account of the independent reseller.

Separately, booking agents could negotiate protective measures with suppliers, such as an indemnity from the event organizer for liabilities arising from delivery failures (for example limited seating for high-demand events or logistical delays). Similarly, reseller platforms could hold tickets in escrow that would be released on pre-defined conditions between sellers and buyers. Further, unique business strategies, such as gamification of the buying experience could be deployed to enhance engagement in the sales process between resellers and buyers.

Needless to state, digital booking agents and reseller platforms need to examine their data security measures from a technical and regulatory perspective to ensure that security breaches are immediately identified, corrected and reported.

Takeaway for the Reseller Industry


Considering the expansive Indian market, reseller platforms have a unique opportunity to coexist with booking agents by disrupting the exclusivity that currently exists between booking agents and event organizers. To do so however, would require resellers to ensure fair and competitive pricing is offered to end consumers in a transparent manner while equally balancing their regulatory obligations under Indian laws to mitigate the risk of litigation.

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