

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

November 21, 2019

Michael Rapino
Chief Executive Officer and President
Live Nation Entertainment
9348 Civic Centre Drive
Beverly Hills, CA 90210

Dear Mr. Rapino:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is investigating practices in the live event ticketing industry. We write to request information regarding the ticketing policies and practices of Live Nation Entertainment and its subsidiary, Ticketmaster. The Committee, which has broad jurisdiction over consumer protection issues, is concerned about potentially unfair and deceptive practices occurring in the primary and secondary ticket marketplace, many of which have been documented in consumer complaints, press stories, and government reports.

The Committee has taken a number of key actions to protect consumers in the live event ticketing marketplace. These actions include the introduction and passage of important legislation designed to help level the playing field by ensuring fairness and transparency for consumers. In 2016, the Committee, and subsequently the House of Representatives, passed H.R. 5104, the “Better On-line Ticket Sales Act of 2016,” which prohibits the use of computer software to purchase tickets by circumventing security measures of ticketing websites; the Senate companion to this legislation became law in December 2016.¹ In September 2016, the Committee sent a bipartisan request to the U.S. Government Accountability Office (GAO)

¹ See H.R. 5104, 114th Cong. (2016) and S. 3183, 114th Cong. (2016). In June 2019, Chairman Pallone and Congressman Pascrell reintroduced H.R. 3248, the “Better Oversight of Secondary Sales and Accountability in Concert Ticketing Act of 2019,” which establishes, in part, transparency requirements for ticket availability, speculative tickets, fees, and “white-label” websites. See H.R. 3248.

asking that GAO initiate a study of the ticketing industry and its impact on consumers.² GAO published the resulting report in April 2018.³ In an effort to further protect consumers and promote transparency, in July 2018, the then-Ranking Member of the Committee also sent a letter to the Federal Trade Commission (FTC), requesting the agency examine a host of consumer protection issues regarding this marketplace.⁴ In June 2019, the FTC held a workshop where industry representatives, consumer groups, and other stakeholders discussed and raised various concerns about the current state of the ticketing industry. As part of this workshop, the FTC elicited public input in advance of the workshop and received close to 7,000 comments, including comments critical of the ticketing industry.⁵

Nonetheless, despite ongoing bipartisan efforts by the Committee, as well as federal agency action to better understand the current ticketing marketplace, consumers still face a host of troubling practices and trends in the ticketing industry. Many of these issues relate to a lack of transparency and fairness, which places purchasers at an unfair advantage when attempting to buy tickets in the current marketplace. Specifically, these practices and trends include: 1) high, hidden fees; 2) a lack of transparency related to limited ticket availability; 3) speculative tickets that harm unknowing consumers; 4) “white-label” ticket websites that employ practices designed to deceive consumers; and 5) tickets that cannot be transferred or resold, limiting consumer options.

1) Consumers continue to be confronted by high, hidden fees. Both primary ticket sellers and resale sites often add fees on top of the ticket price.⁶ The type and amount of fees can

² Letter from Rep. Fred Upton, Chairman, House Committee on Energy and Commerce, Rep. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce, and Rep. Bill Pascrell, Jr., to Gene L. Dodaro, Comptroller General of the United States (Sept. 12, 2016).

³ Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (Apr. 2018) (GAO-18-347).

⁴ In July 2018, then-Ranking Member Pallone and Congressman Pascrell sent a letter to FTC Chairman Joseph Simons calling on the FTC to “act against deceptive and unfair practices” in the live events marketplace and address the consumer protection issues highlighted in a 2018 GAO report. *See* Letter from Rep. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce, and Rep. Bill Pascrell, Jr., to Joseph Simons, Chairman, Federal Trade Commission (July 20, 2018).

⁵ *See* Federal Trade Commission, *Online Event Tickets Workshop* (www.ftc.gov/news-events/events-calendar/2019/03/online-event-tickets). *See also* Federal Trade Commission, *FTC to Hold Workshop Examining Online Event Ticket Sales* (Oct. 4, 2018) (press release).

⁶ Tickets for concerts, theater, and sporting events can be purchased—typically online—from the original seller (primary market) or a reseller (secondary market). Government

vary by transaction, and may include a facility fee, service fee, and processing fee.⁷ As part of the review requested by the Committee, GAO found that fees associated with a ticket purchase averaged 27 percent of the ticket's face value on the primary market, and averaged 31 percent of the list price on the secondary market.⁸

These fees are often not disclosed until the end of the transaction, which may mislead consumers about the total cost and frustrate their ability to accurately compare prices.⁹ In addition, companies have made it difficult for consumers to learn more about these fees. For example, as part of its audit, GAO noted that companies failed to prominently display fees and, in some instances, required consumers to create or log in to accounts to learn about the fees charged.¹⁰

2) Consumers appear to be impacted by a lack of transparency related to limited ticket availability. In its report, GAO found that consumers may be unaware that only a limited number of seats could be available by the time tickets go on sale to the general public.¹¹ More specifically, GAO found that ticket availability is impacted by presales and "holds," referring to when venues, promoters, agents, and artists hold back a certain number of tickets.¹² Further, GAO reported that anywhere from 10 to 30 percent of tickets are offered through presale,¹³ and a 2016 study by the New York Attorney General found that close to 16 percent of tickets were held back in a sample of New York's top grossing concerts.¹⁴ According to the New York Attorney General, for certain high-profile events, less than half of the tickets are reserved for the general public.¹⁵

Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (Apr. 2018) (GAO-18-347).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ New York Attorney General, *Obstructed View: What's Blocking New Yorkers from Getting Tickets* (ag.ny.gov/pdfs/Ticket_Sales_Report.pdf).

¹⁵ *Id.*

Even when tickets are made available to the general public for purchase, consumers must compete against brokers for the limited number of remaining tickets.¹⁶ This places consumers at a disadvantage because brokers have significant resources, including software that allows them to purchase a substantial amount of tickets quickly and then resell the same tickets at marked-up prices on secondary ticket exchanges.¹⁷ Despite federal legislation enacted in 2016 that prohibits the use of such software, new research shows that nearly 40 percent of all traffic on event ticketing sites is made up of bots.¹⁸

3) Speculative tickets continue to harm unknowing consumers. Despite efforts to address speculative tickets, we are concerned that there continues to be a lack of transparency around the sale of these tickets. According to GAO, a speculative ticket refers to instances in which brokers have put tickets on a secondary ticket exchange before having possession of such tickets, at times without informing the purchaser of the speculative nature of the ticket.¹⁹

These practices harm consumers in instances when they do not receive the tickets they purchased or receive tickets that differ from the ticket or seat advertised. Even if the consumer receives a refund for the ticket price, they may have already incurred other non-reimbursable costs to attend the event, such as travel or hotel expenses.

4) White-label websites may employ practices that are designed to deceive consumers. GAO found that consumers face various deceptive practices in the ticketing marketplace, including the use of white-label websites in the secondary marketplace.²⁰ Some white-label websites employ deceptive marketing practices to appear as legitimate event venue websites, including using images of the venue or the venue's name in the website domain names.²¹ As a result, consumers may believe they are using the official venue website, when in fact they are using websites unaffiliated with the venue. To compound the problem, GAO found that the white-label websites it reviewed typically charge substantially higher prices and fees than the official venue website.²² Although white-label websites conduct their own marketing

¹⁶ *Id.*

¹⁷ Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (Apr. 2018) (GAO-18-347).

¹⁸ Distil Networks, *How Bots Affect Ticketing* (Feb. 2019) (resources.distilnetworks.com/white-paper-reports/bad-bots-and-ticketing).

¹⁹ Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (Apr. 2018) (GAO-18-347).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

and advertising and set their own prices and fees, these websites connect to affiliated ticket resale exchanges for ticket inventory and services.²³

5) Restrictions on the transferability of tickets limit consumer options. Event organizers may designate tickets for an event as nontransferable, prohibiting consumers from transferring purchased tickets to another individual. According to GAO, nontransferability can limit consumers' ability to sell tickets they can no longer use, can be inconvenient if identification is required to gain entry to the event, and can present difficulties for consumers wishing to buy tickets as gifts for others.²⁴ Additionally, it is unclear whether buyers are adequately informed that tickets sold are nontransferable. As reported by the *Los Angeles Times*, hundreds of fans were recently turned away from a Black Keys concert at the Wiltern because they had unknowingly purchased tickets on the secondary market that were nontransferable.²⁵

In addition, a 2016 report by the New York Attorney General expressed concern that Ticketmaster could leverage its market power in the primary ticket market to restrict the resale of tickets to its own secondary ticket platform—thereby limiting choice for consumers, driving up prices, and harming ticket availability.²⁶ Fueling these concerns is the rising dominance of Ticketmaster in the ticketing marketplace.²⁷ According to the U.S. Department of Justice, Ticketmaster held a more than 80 percent share of the primary ticket market in 2008 and continues to be the market leader today.²⁸ In addition to the primary market, Ticketmaster also maintains a significant market presence in the secondary market. According to GAO, in 2016, Ticketmaster held the second-largest market share in the secondary market.²⁹

As the Committee continues to examine the ongoing consumer protection issues in the primary and secondary ticketing marketplace, we request you provide a response to the attached questions and schedule a briefing as soon as possible, but no later than December 12, 2019. An attachment to this letter provides additional information about responding to the Committee's request.

²³ *Id.*

²⁴ *Id.*

²⁵ *Why the Black Keys Shut Out Hundreds of Fans, Causing Chaos at the Wiltern*, *Los Angeles Times* (Sept. 20, 2019).

²⁶ New York Attorney General, *Obstructed View: What's Blocking New Yorkers from Getting Tickets* (ag.ny.gov/pdfs/Ticket_Sales_Report.pdf).

²⁷ *Id.*

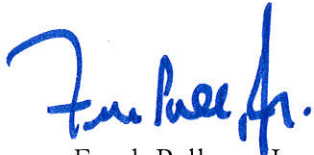
²⁸ Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (Apr. 2018) (GAO-18-347).

²⁹ *Id.*

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If you have any questions and to schedule the briefing, please contact Mohammad Aslami, Jon Monger, or Anna Yu from the Majority staff at (202) 225-2927 or Brittany Havens or Bijan Koochmaraie from the Minority staff at (202) 225-3641. Thank you in advance for your time and cooperation.

Sincerely,



Frank Pallone, Jr.
Chairman



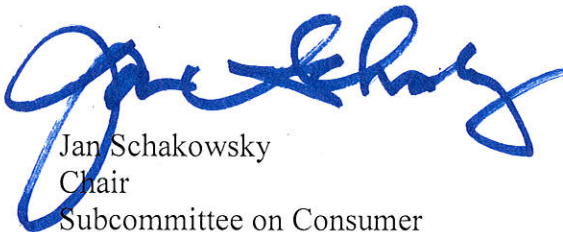
Greg Walden
Ranking Member



Diana DeGette
Chair
Subcommittee on Oversight
and Investigations



Brett Guthrie
Ranking Member
Subcommittee on Oversight
and Investigations



Jan Schakowsky
Chair
Subcommittee on Consumer
Protection and Commerce



Cathy McMorris Rodgers
Ranking Member
Subcommittee on Consumer
Protection and Commerce

DOCUMENT AND INFORMATION REQUEST

To assist the Committee in its investigation, please respond to the following questions by providing the requested documents and information:

1. Please provide a list of all primary market ticket platforms and secondary market ticket exchanges owned or operated by your company, and the total number of tickets sold on each platform or exchange in 2018.
2. What fees does your company charge per ticket sale, and how are those fees calculated? Please provide a copy of any policies related to how your company sets and calculates fees.
3. How much revenue did your company generate from ticket fees in calendar years 2016, 2017, and 2018?
 - a. Please provide this figure for each of your company's primary and secondary ticket sales platforms for each of the above years.
 - b. For each platform for each of the above years, please provide the following:
 - i. The total amount of fee-generated revenue collected for all artists and the total amount for artists affiliated with or in which your company has a financial interest, if any;
 - ii. The total amount of fee-generated revenue collected for all promoters and the total amount for promoters affiliated with or in which your company has a financial interest, if any;
 - iii. The total amount of fee-generated revenue collected for venues and the total amount for venues affiliated with or in which your company has a financial interest, if any; and
 - iv. The total amount of fee-generated revenue collected for any other reason or party. Please provide the party that receives the revenue.
4. At what point during the purchase process does your company make the consumer aware of the type and amount of ancillary fees charged?
 - a. Where and how is this information communicated to consumers?
 - b. Since January 1, 2016, has any federal, state, or local entity or individual taken legal action against your company regarding the lack of "all-in" pricing? If so, please provide a list of such actions, the claim alleged in each action, and, if applicable, the results of any such action.

5. Regarding ticket refunds, in what instances does your company provide consumers with a refund for the total cost of the ticket, including any ancillary fees?
 - a. Does your company provide consumers with a refund for the total cost of a speculative tickets?
 - b. Is your company's refund policy disclosed to the consumer during the transaction process? If yes, please explain what information is provided to consumers, how your company discloses this information to consumers, and at what point in the purchasing process this information is disclosed.
 - c. Please provide a copy of all policies related to ticket refunds.
6. Does your company sell ticket insurance, or contract with or otherwise permit a third-party to sell ticket insurance on your platform or website? If so, please explain the ticket insurance that your company offers, including whether the ticket insurance is a set price or calculated based on the cost of the ticket, and what the ticket insurance covers.
7. How does your company determine the number of tickets that will be sold or distributed for any given event that are 1) presales; 2) holds; 3) general sales; and 4) other categories of sales to the extent not already covered?
8. For each of the 15 highest grossing domestic events in 2016, 2017, and 2018, please provide the percentage of tickets sold or distributed that were 1) presales; 2) holds; 3) general sales; and 4) other categories of sales to the extent not already covered. Please identify event details, including artist and location.
9. Does your company disclose the total number of tickets available to the general public? If yes, when and how is this information conveyed to consumers?
 - a. Does your company disclose to the public the number of tickets sold in presale? If yes, when and how is this information conveyed to consumers?
 - b. Does your company disclose to the public the number of tickets held back by an artist, venue, promoter, or other entity? If yes, when and how is this information conveyed to consumers?
 - c. Do tickets put on "hold" for an artist, venue, promoter, or other entity ever get released to the general public for purchase? If yes, when and how are consumers informed of the availability of these tickets?
10. Does your company sell tickets with limits on the transferability or resell limitations of tickets, including limits on the mechanisms or platforms by which a ticket may be

transferred? If yes, please describe such limitations in detail and the reasons for such limitations.

- a. For calendar years 2016, 2017, and 2018, please provide the percentage and number of tickets sold that included limits on transferability or resell limitations, including limits on the mechanism or platforms by which a ticket may be transferred. If transferability is limited for only a portion of tickets or certain kinds of tickets for any given event, please explain.
- b. At what point in the ticket purchasing process are consumers informed that tickets cannot be transferred or resold? Please explain where and how this information is communicated to the consumer.
- c. To the extent that a transfer or resale is done using technology used, owned, or operated by your company, what information about the consumer and the transfer is collected; for what purposes is such information used; is the information shared with third parties and, if so, for what purpose; and how is the consumer informed of such information practices?
- d. Please provide all policies related to the transferability or resell limitations of tickets.

11. Does your company permit the sale of speculative tickets on your company's platform?

- a. What disclosure does your company make to alert consumers of the speculative nature of the ticket and how and when in the purchase process is this disclosure made?
- b. What actions has your company taken to address speculative tickets sold on your company's platform, including legal or other actions taken to enforce your company's speculative tickets policy?
- c. In the past year, have any speculative tickets been sold on your company's platform(s)?
- d. Please provide all policies related to the sale of speculative tickets on your company's platform.

12. Does your company work with, own, or operate any platform and/or website that make any representation of affiliation or endorsement to a venue, team, or artist, when in fact no formal affiliation or representation exists (also known as white-label websites)? If yes, please provide a list of these websites and explain:

- a. How your company coordinates with any such websites, including the sharing of technology and/or sales inventory.
 - b. If and how your company notifies consumers that the website and/or platform is not endorsed or affiliated with the venue, team, or artist represented on your company's properties.
 - c. For 2016, 2017, and 2018, what percentage of your company's total revenue is derived from white-label websites as that term is described above?
13. What protocols are in place to ensure that tickets resold on your company's platform(s) were not originally purchased using bots or fictitious accounts? What analysis has your company completed to determine the effectiveness of these protocols?
14. What mechanisms does your company have in place to ensure that consumers are afforded a reasonable opportunity to obtain face-value tickets? What analysis has your company completed to determine the effectiveness of these mechanisms?
15. According to a recent *Variety* news report, "[r]epresentatives for Live Nation, the world's largest live-entertainment company and owner of Ticketmaster, confirmed that it bypassed conventional channels and directly placed thousands of concert tickets on the secondary market upon artists' requests."³⁰
- a. In what circumstances does your company bypass the primary market and directly place tickets on the secondary market?
 - b. How does your company determine the number of tickets placed directly on the secondary market? For any given event, is there a maximum amount of tickets your company directly places on the secondary market?
 - c. Does your company have any internal policies, protocols, or procedures that govern the practice of bypassing the primary market to place tickets directly onto secondary market platforms? If yes, please provide a copy of any such policies, protocols, or procedures.
 - d. Do your company's policies, protocols, or procedures designate which secondary market platforms must be used when tickets are directly placed in the secondary market? If not, how does your company determine which secondary market platform to use?
 - e. Did the entities or individuals requesting that tickets be placed on the secondary market request a minimum price for the resale of the tickets? Did

³⁰ *Live Nation Confirms Placing Tickets Directly on Secondary Market at Artists' Request*, *Variety* (July 19, 2019).

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Live Nation or Ticketmaster receive any revenue from such sales, and if so, what was the total amount annually since January 1, 2016?