

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

Joe Choti  
President and Chief Executive Officer  
Tickets.com, LLC  
535 Anton Boulevard, Suite 250  
Costa Mesa, CA 92626

Dear Mr. Choti:

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 Tickets.com, LLC. 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.<sup>1</sup> In September 2016, the Committee sent a bipartisan request to the U.S. Government Accountability Office (GAO)

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<sup>1</sup> 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.<sup>2</sup> GAO published the resulting report in April 2018.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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 ticket availability and pricing; and 3) 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.<sup>6</sup> The type and amount of fees can vary by transaction, and may include a facility fee, service fee, and processing fee.<sup>7</sup> As part of

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<sup>2</sup> 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).

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

<sup>4</sup> 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).

<sup>5</sup> *See* Federal Trade Commission, *Online Event Tickets Workshop* ([www.ftc.gov/news-events/events-calendar/2019/03/online-event-tickets](http://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).

<sup>6</sup> Tickets for concerts, theater, and sporting events can be purchased— typically online— from the original seller (primary market) or a reseller (secondary market). Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (Apr. 2018) (GAO-18-347).

<sup>7</sup> *Id.*

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.<sup>8</sup> According to GAO's review of a sample of sporting events, these events generally had fees of approximately 20 percent of the ticket's cost.<sup>9</sup>

According to GAO, 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.<sup>10</sup> 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.<sup>11</sup>

**2) Consumers appear to be impacted by a lack of transparency related to ticket availability and pricing.** In its report, GAO found that consumers may be unaware that seats can become unavailable before tickets go on sale to the general public.<sup>12</sup> More specifically, GAO found that ticket availability can be impacted by presales and "holds," referring to when a certain number of tickets are held back for teams, sponsors, and performers.<sup>13</sup> Furthermore, consumers may be unaware that ticket prices may be impacted by the use of dynamic pricing, which occurs when prices adjust based on changing demand factors, such as team performance and weather.<sup>14</sup>

Even when tickets are made available to the general public for purchase, consumers must compete against brokers for the limited number of remaining tickets.<sup>15</sup> 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.<sup>16</sup> According to GAO, major league sports teams sell up to 30 percent of tickets directly to brokers.<sup>17</sup> Additionally, despite federal legislation enacted in

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> New York Attorney General, *Obstructed View: What's Blocking New Yorkers from Getting Tickets* (ag.ny.gov/pdfs/Ticket\_Sales\_Report.pdf).

<sup>16</sup> Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (Apr. 2018) (GAO-18-347).

<sup>17</sup> *Id.*

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.<sup>18</sup>

**3) 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.<sup>19</sup>

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.

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<sup>18</sup> Distil Networks, *How Bots Affect Ticketing* (Feb. 2019) ([resources.distilnetworks.com/white-paper-reports/bad-bots-and-ticketing](https://resources.distilnetworks.com/white-paper-reports/bad-bots-and-ticketing)).

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

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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



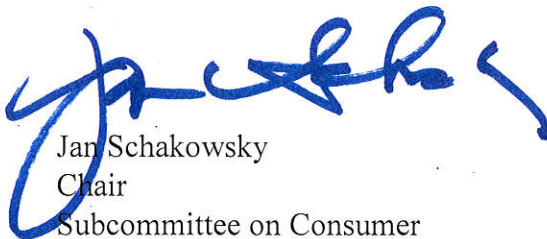
Greg Walden  
Ranking Member



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, if applicable, 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, if applicable.
  - b. Do you share fee-generated revenue with any Major League Baseball (MLB) teams? If yes, what is the average percentage of fee-generated revenue that goes to MLB teams?
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 yes, 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. Is your company's refund policy disclosed to the consumer during the transaction process? If yes, please explain what information regarding your refund policy is provided to consumers, how your company discloses this information to consumers, and at what point in the purchasing process this information is disclosed.
  - b. 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. 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 for teams, sponsors, performers, or any other entity? If yes, when and how is this information conveyed to consumers?
9. Does your company sell tickets with limits on the transferability or resell 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, including the following:
  - 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 contain transferability or resale limitations? 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 or any parent or affiliated 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 related to the transferability or resell limitations of tickets.

10. 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?
11. Does Tickets.com disclose the use of dynamic pricing to fans?
  - a. Who determines whether dynamic pricing will be used?
  - b. Has Tickets.com ever provided recommendations, advice, guidance, or instructions to teams on whether to use dynamic pricing? If yes, please describe.