

February 14, 2023

Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: Written Questions for the Record from Senate Committee on the Judiciary  
Issued January 31, 2023

Dear Chairman Durbin, Ranking Member Graham, Senator Klobuchar, Senator Lee, et al.,

Live Nation welcomes this opportunity to respond to the written questions we received from Senators Blackburn, Booker, Cruz, Grassley, Klobuchar, Lee, Padilla, and Tillis, and thanks the Judiciary Committee for the interest they have shown in learning more about the live events industry. As we discussed during the January 24, 2023 hearing on the ticketing industry, and as we expressed in our prior correspondence, the live events industry faces a number of unique challenges—principally, the proliferation of industrial-scale scalping and deceptive ticketing practices. At the same time, the industry today is more competitive than ever before, and we are seeing rapid innovation and dynamic disruption while the number of live events continues to grow well beyond even pre-pandemic levels. We are optimistic for the future of the live events and entertainment industry, and we appreciate the chance to share our perspective with this Committee.

Many of the questions we received concern the state of competition in the ticketing industry. In the answers that follow, we provide more data showing that both primary and secondary ticketing markets are highly competitive. Ticketmaster remains the largest primary ticketing company, but it has steadily lost market share and has lowered pricing despite having by far the best product in the industry—sure signs that it is not the monopolist that some claim. Competition for primary ticketing contracts occurs through competitive bidding, and the intensity of that bidding process is now greater than ever. Venues and teams retain a larger portion of the value of a ticketing deal every year. We are proud that most continue to choose Ticketmaster, but that is because in today's competitive market they can buy the services they prefer—Ticketmaster's—at highly competitive prices.

Several Senators have also asked questions about ticket transferability. This is the real fault line between Ticketmaster and its rivals such as SeatGeek. Live Nation and Ticketmaster strongly support secure ticket transfer and technologies allowing artists and sports teams to control the terms of resale for the shows and games that they put on. The pricing that artists

and teams choose should not be the target of ticket scalpers and the resale marketplaces that support them. An artist's desire to have low prices should be respected. If it wants to restrict transfers to face value only, it should be able to do so. If it wants to take the profit out of using bots to hijack tickets meant for real fans, it should be able to do so. Unfortunately, SeatGeek and others see common sense restrictions on ticket transferability, clearly benefiting artists and fans, as a threat to their secondary ticketing business—businesses overwhelmingly serving professional ticket resellers, not fan-to-fan exchange. That is the hidden agenda behind these attacks on Ticketmaster.

We urge Congress to recognize this and continue to move public policy in the directions that serve artists and fans. The BOTS Act should be expanded, and its enforcement mechanisms strengthened. Speculative and fraudulent resale practices should be banned. Federal law should give artists and other event providers clear authority to set the terms of resale for their events.

Please find enclosed our responses to each Senator's questions, which are addressed separately and in alphabetical order.

Sincerely,



Daniel M. Wall  
Executive Vice President  
Corporate and Regulatory Affairs  
Live Nation Entertainment, Inc.

Enclosure

**Senator Blackburn**

- 1. As of 2019, the Ticketmaster application had more downloads and more active users than any of its competitors. Many applications are powered by Ticketmaster, collecting troves of data on consumers.**
  - a. What does Ticketmaster do with the data they collection from consumers?**
  - b. When bots attack the site, do they gain access to the consumer data that Ticketmaster collects?**

Ticketmaster’s approach to consumer data is outlined in its privacy policy, which is available here: <https://help.ticketmaster.com/s/article/Ticketmaster-Privacy-Policy>. Ticketmaster is committed to ensuring the safety and security of the fans that use its applications and websites, and meets and even exceeds industry standard consumer privacy protections, as well as GDPR, CCPA, and all other applicable data use regulations. In fact, Ticketmaster invests tens of millions of dollars annually in information security and privacy safeguards, and our policies far surpass any national standards in this area.

Every ticketing company, primary and secondary, uses consumer data for marketing. Ticketmaster delivers curated messaging to fans, whether it be about shows, events, presales or offers through email, SMS or social media marketing. For each channel, we rely on the individual fan’s chosen method(s) of communication:

1. For email marketing, fans can opt out through their account settings, or by following a link at the bottom of every email.
2. For SMS marketing, fans must have provided opt-in marketing consent to receive messages.
3. For social media marketing through platforms like Facebook or TikTok, fans receive messaging based on their preferences within the social media platform. We do not share the contact information of any fan with social media platforms.

Curated messaging based on purchase histories and other signals is intended to help artists stay connected with their fans, and ensure that fans are kept informed of upcoming concerts and events that they might be interested in. That data is always within the consumer’s control—they can unsubscribe or update their preferences at any time.

In the live event industry, the term “bots” generally refers to automated scripts deployed by unscrupulous ticket scalpers to siphon tickets away from real fans and onto secondary platforms, where the tickets can often be sold for a significant premium over the price that the artist preferred to charge. By their nature, these bot attacks neither seek to obtain nor in fact

obtain access to consumer data; they are simply intended to buy tickets faster than any human being can. We know of no occasion when consumer data in our possession was compromised by bot attacks.

**2. When consumers purchase tickets through StubHub, they are required to return to the Ticketmaster site to have their order fulfilled.**

- a. Does Ticketmaster collect these consumers' data?**
- b. If so, what other vendors does Ticketmaster share this data with?**
- c. What protections and safeguards does Ticketmaster have in place surrounding consumer data?**

In 2019, Ticketmaster pioneered an innovation in digital ticketing called SafeTix, which we designed to ensure that the recipient of a transferred ticket can be confident that it is valid and not fraudulent. Historically, the secondary ticketing industry has been plagued by widespread fraud. Scammers could acquire a single legitimate ticket with a barcode (e.g., embodied in a .PDF file) and copy it, selling multiple copies to multiple unsuspecting fans. While each ticket appeared real, on the day of the event, only the first person to use the barcode would be allowed into the event and the others would be turned away. SafeTix is Ticketmaster's solution to that problem, and our competitors have launched similar innovations for the same reasons: to protect fans from fraud.

We presume the reference to a StubHub customer having to "return" to Ticketmaster is about the process for a SafeTix transfer. Ticketmaster's resale competitors like to complain that they are disadvantaged by the fact that Ticketmaster, if it sold the primary ticket, needs to issue a new ticket to whomever bought the ticket from a resale site. Respectfully, it makes no sense that the minor inconvenience to consumers in having to effectuate a transfer through Ticketmaster is unreasonable given the benefit (a) to the consumer in getting a secure digital ticket and (b) to the resale site in being able to offer secure digital tickets. Rather than limiting secondary ticketing, the SafeTix technology supports a robust resale ecosystem because where SafeTix is used, fans can confidently buy and sell on any platform without the waste and distrust caused by fraudulent ticket transfers.

The suggestion that Ticketmaster gets some meaningful competitive advantage from data acquired through SafeTix transfers is misplaced. Most SafeTix transfers are to consumers who already have Ticketmaster accounts. On those occasions when the recipient of a SafeTix ticket does not already have a Ticketmaster account, Ticketmaster collects a limited amount of information in order to register the new ticketholder and be able to confirm that the new ticketholder is who they say they are: an email address, name, phone number, and zip code. Ticketmaster follows industry practice in sharing this limited information with venues so that the venue can, for example, alert fans if a show has been canceled, and for use in the event of an emergency. We understand that our competitors do the same. However, we do not use

information acquired only through SafeTix transfers for our own marketing (unless the fan opts in to receive such marketing).

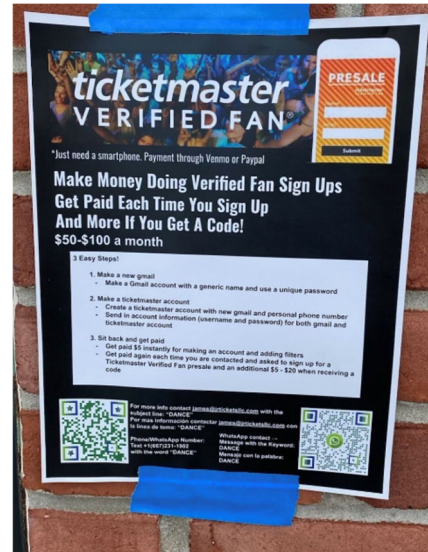
Ticketmaster is also committed to ensuring the safety and security of all fans who use its applications and website—including those who use it only for the limited purpose of receiving a resold ticket. Ticketmaster fully complies with and even exceeds industry standard consumer privacy protections, as well as GDPR, CCPA, and all other applicable data use regulations. Additional details regarding Ticketmaster’s approach to consumer data are outlined in its privacy policy, which is available here: <https://help.ticketmaster.com/s/article/Ticketmaster-Privacy-Policy>.

**3. You have asserted that Ticketmaster has a difficult time identifying bot attacks.**

- a. Why can Ticketmaster not distinguish between a bot attack and a consumer?**
- b. What is your timeline and specific plan to secure your sites so consumers know their data is safe and that they will have the ability to purchase tickets?**

We never publicly state how we distinguish bots from consumers, as doing so would give bad actors a playbook to cheat the system. In general, we have developed sophisticated methods to determine in real time whether a call on the Ticketmaster system exhibits characteristics we have previously associated with bots and actors using bots. We would be happy to arrange a confidential briefing on this subject. Ticketmaster has hands-down the most sophisticated bot fighting technologies in the world, and does more to fight bots than all others in the industry combined.

There is no magic solution to the scourge of bots, because the fight against them exhibits the characteristics of an arms race. We constantly upgrade our capabilities, but the bad actors constantly look for new ways to break through our defenses. For example, we are very proud of our Verified Fan product, which is the industry-leading technology in these efforts. By pre-registering fans, we move the onsale to secure servers accessible only with codes unique to each registered fan. So what has happened now? As you can see in the photo, brokers are recruiting individuals to pose as Verified Fans. Needless to say, we are investigating and will follow-up with appropriate authorities, but this gives one a sense of the challenges. We nevertheless continue to innovate and adapt: the recent Beyoncé onsale is an example of this, and an indicator of how these efforts are already paying off. We implemented a new approach to the Beyoncé onsale, including by separating Verified Fan registration into groups of cities. Though demand for Beyoncé's Renaissance World Tour exceeded supply of available tickets by over 800% in some cities, we nonetheless succeeded in getting tickets into the hands of tens of thousands of real fans.



We emphasize again that ticket bots have not presented data security issues. They are after tickets, not consumer data.

**4. You have mentioned you feel that Ticketmaster is blamed for “spec” tickets on secondary ticket sites. As an example, you pointed to tickets for Madonna’s upcoming tour that are already available for sale on some secondary sites. Why do you think the sellers on these sites believe they can obtain these specific tickets? Is it because they know Ticketmaster is not stopping them from being procured by bots and scalpers?**

Speculative ticketing does not depend on the seller getting the tickets for the specific seats offered for sale. The strategy is to cover the speculative offer with seats that are as good or better. The scalper is betting that between the time of the sale and the time when it needs to deliver the tickets it can buy something the buyer will accept at a purchase price lower than the buyer paid for the spec ticket. Essentially the scalper is engaging in a form of arbitrage based on its superior knowledge of the likely selling prices for tickets at different points in time.

When listing speculative tickets for sale, scalpers and bots do not need to consider whether Ticketmaster will be able to stop them. They already know that Ticketmaster will not accept speculative listings. But StubHub, SeatGeek, Vivid Seats, and others will, so they have plenty of outlets for engaging in this fraud. And this is unfortunately a largely risk-free practice. If the broker can fulfill the order, they pocket a huge profit, and if they can't, they can simply refund the speculative purchase.

Speculative ticketing is a fraudulent and deceptive practice, and one that Ticketmaster emphatically denounces. Ticketmaster does everything in its power to prevent third-party sellers from engaging in the practice on our own resale platform, including an unequivocal, outright ban as a matter of policy. Speculative ticketing should be unlawful in the U.S., as it is in much of Europe and the UK.

**5. You have suggested that, if you do not initially identify a buyer as a bot, the only course of action for Ticketmaster is to cancel the sale after the fact. That, however, does not make those tickets available to consumers. Instead of letting the transaction occur, why does Ticketmaster not flag suspicious transactions during the actual sale period?**

Ticketmaster identifies and blocks the overwhelming majority of bots in real time. The small minority that get through Ticketmaster's defenses obtain tickets. There are then post-sale processes by which Ticketmaster may learn that something is amiss and what initially appeared to be a genuine consumer was not. At that point, Ticketmaster will likely first try to determine whether the tickets have been resold. If they have not been resold and are still in the possession of the bad actor, we will most likely cancel the tickets, block the buyer, and put the canceled tickets on sale again at the regular face value price. That way they are made available to real consumers.

It is more complicated if the illicitly purchased tickets have been resold, because in that circumstance they are likely in the hands of real consumers (albeit ones who paid scalper prices). In those cases, Ticketmaster will generally consult with the artist's team on a plan of action.

**6. You have stated that part of the problem with the current issues in the ticketing industry is that consumers do not understand aspects of how the industry works. Specifically you pointed to the fact that most consumers do not understand the difference between the primary and secondary ticket markets. Given all the failures of Ticketmaster, is it fair to blame consumers for not understanding what is actually a very complex and flawed industry?**

We certainly do not blame consumers for not understanding the industry. We have made the point that some criticism of Ticketmaster reveals misunderstandings, for example that service fees on primary tickets are set and pocketed solely or mainly by Ticketmaster. It also has to be said that participants in the industry who know better misrepresent its workings to assign blame to Ticketmaster for things that are not arguably its fault. A prime example would be resale competitors diverting attention from their own support of scalping by trying to blame Ticketmaster for the problem.

Live Nation and Ticketmaster work hard to educate fans and the broader public about how the ticketing process works and who is responsible for bot attacks and huge resale markups. We regularly post updates on the Ticketmaster blog, explaining developments around recent or upcoming live events. See <https://blog.ticketmaster.com/>. For events in which we offer tickets for

resale as well as primary sale, we prominently label resale tickets and display them in a different color in order to ensure that fans are not confused while giving them as broad a choice of ticket as possible. Currently, before a high-profile onsale when demand is expected to exceed supply, Ticketmaster engages in major public outreach to explain the systems through which tickets will be sold and how fans can give themselves the best chance of buying a ticket. Furthermore, unlike our competitors in the resale market, Ticketmaster bans the unfair and deceptive practice of speculative ticket sales. All of our efforts stem from our fundamental belief that the artist-fan connection is best served with transparency.



**Senator Booker**

**In 2008, DOJ estimated that Ticketmaster held more than 80 percent of market share in the primary ticket market. Ten years later, in its 2018 report, GAO reported that Ticketmaster was still the primary market leader. Ticketmaster also enjoys significant market share in the secondary market, a position that GAO estimated was the second largest. What’s concerning is that it seems that Ticketmaster’s behavior in the primary market is constraining other companies in the secondary market.**

**At an on-sale, a consumer purchases a ticket for an event to be held at a later date. Ticketmaster, however, does not deliver a ticket until just before an event occurs.**

- a. What kind of influence should artists have on transferability?**
- b. Do you find that it is beneficial for an artist to influence capping ticket prices and/or resale amount?**

Ticketmaster’s behavior in the primary market is unequivocally *not* constraining other companies in the secondary market. The secondary ticketing market has experienced enormous expansion in recent years, and is highly competitive. Ticketmaster’s resale competitors SeatGeek, StubHub and Vivid Seats likely control 75% or more of that market. Furthermore, they are the resale marketplaces that cater to and are therefore preferred by the professional resellers who, contrary to popular understanding, account for the vast majority of sales on those resale platforms. (Fan-to-fan exchange is a small part of their business.)

We do understand that these companies complain about ticket transferability. Every time Ticketmaster releases some new tool or feature to promote the connection between artists and fans and prevent scalping—from secure digital ticketing to SafeTix to allowing artist restrictions on resale—arguments demonizing Live Nation and/or Ticketmaster follow as a matter of course. The spread of misinformation around the purpose for these innovations is meant to protect the flow of tickets to the professional ticket arbitrageurs, to the detriment of fans. On any such issues, we will always take the side of the artist, the fan, and the connection between the two that the artist intended.

Live Nation believes that the artist or team should have the primary say in the transferability of a ticket to their concert or game—including whether it is transferable, and if it is, when and how the ticket can be transferred. One must understand that when an artist plans a live event or tour, they decide precisely how much each ticket should sell for in the primary onsale, and for a variety of reasons, they often choose to set those prices well below what the market would otherwise support. They may be trying to build long-term relationships with fans, they may be trying to appeal to younger or otherwise less-affluent audiences, and some are simply offended by what tickets can go for on resale markets. The common thread is that when

artists decide to price their tickets below market, the intended beneficiary of that choice *is the fan*, not the scalper who sees an easy arbitrage opportunity to make a quick profit. Ticket transferability technology is meant to protect the artist's well-intentioned decision to price at a reasonable level, but the secondary ticketing sites see it as a threat to their inventory levels, and therefore demonize it. But in our view, if artists want to preserve the integrity of their pricing decisions by designating those tickets non-transferable or only transferable at face value, we see no reason they should not be able to do so. To be clear, Live Nation does not oppose "fan freedom," as our rivals claim; we simply define it to include freedom from having the interests of scalpers and resale sites override artist decisions to keep prices lower than they surely would be in a world with unlimited transferability.

With respect to delayed delivery, this practice is another example of promoting artists, sports teams, and fans over brokers and other professional resellers. Delivery delays give Ticketmaster time to determine whether tickets have been purchased in violation of ticket limits or Ticketmaster's Terms of Use, and to cancel them if that is in fact the case. *See* [https://help.ticketmaster.com/s/article/What-is-a-ticket-delivery-delay?language=en\\_US](https://help.ticketmaster.com/s/article/What-is-a-ticket-delivery-delay?language=en_US) ("A delivery delay is used to prevent tickets from being accessed until we can confirm everyone has adhered to the event ticket limit and didn't use unfair ticket technology to buy in bulk. In other words, we want to make sure no one has ordered more than their fair share of tickets and the process is fair."). In short, it helps to prevent bad actors who have accessed tickets improperly from covering their tracks by passing them off onto good-faith buyers. Delivery delays, however, do not stop real fans from reselling their valid tickets.

Further, it is not Ticketmaster's decision whether to delay delivery. Artists, teams, and venues decide whether to release their tickets with a delivery delay and instruct Ticketmaster accordingly. We encourage the practice for the reasons given above, but the decision is not ours to make.

**Senator Cruz**

- 1. One of Live Nation Entertainment/Ticketmaster's ("Ticketmaster") practices is to restrict the actual delivery or transfer of a ticket until a day or so before the show. By doing so, it restricts that buyer from transferring or selling their ticket by depriving them of sufficient time to do so.**

- a. Tell me why this is good for consumers.**

Delayed delivery gives Ticketmaster time to determine whether tickets have been purchased in violation of ticket limits or Ticketmaster's Terms of Use, and to cancel them if that is in fact the case. See [https://help.ticketmaster.com/s/article/What-is-a-ticket-delivery-delay?language=en\\_US](https://help.ticketmaster.com/s/article/What-is-a-ticket-delivery-delay?language=en_US) ("A delivery delay is used to prevent tickets from being accessed until we can confirm everyone has adhered to the event ticket limit and didn't use unfair ticket technology to buy in bulk. In other words, we want to make sure no one has ordered more than their fair share of tickets and the process is fair."). In short, it helps to prevent bad actors who have accessed ticket improperly from covering their tracks by passing them off onto good-faith buyers. Delivery delays, however, do not stop real fans from reselling their valid tickets.

Further, it is not Ticketmaster's decision whether to delay delivery. Artists, teams, and venues decide whether to release their tickets with a delivery delay and instruct Ticketmaster accordingly. We encourage the practice for the reasons given above, but the decision is not ours to make.

- 2. In 2020, the Department of Justice was sufficiently concerned about Ticketmaster's anticompetitive behavior to extend the original 2010 merger consent decree through 2025, based on six verified violations of the 2010 agreement. Such behavior included retaliating against concert venues for using another ticketing company, threatening concert venues, and tying ticketing services to concert promotion business.**

- a. Has Ticketmaster become complacent in the absence of a competitor of equal size?**

Respectfully, we do not agree that there were six verified violations of the 2010 Consent Decree. There were numerous competitor complaints alleging violations, most of which the DOJ investigated but then chose not to pursue. The DOJ then alleged six violations over a nine-year time period during which there were hundreds of ticketing negotiations. Though we have never agreed with DOJ's allegations of retaliation, we decided to extend and modify the Consent Decree in 2020 because we did not want to be in a position where it appeared that we were defending behaviors that do not reflect our business practices and should have no place in this industry.

Ticketmaster has not become complacent. To the contrary, a once-complacent Ticketmaster was reinvigorated by the merger with Live Nation. As soon as the merger was completed, Live Nation set out to improve Ticketmaster, modernize its many antiquated systems, and reorient it around an artist- and consumer-focused business model. Technologically, and from both a consumer and artist perspective, Ticketmaster is a much better ticketing system today than it was in 2010. Its performance in large onsales is without peer, it has the best marketing capabilities of any ticketing system, and it is far and away the leader in preventing fraud and getting tickets into the hands of real fans. The proof here is in the wide array of artists including Taylor Swift who are not promoted by Live Nation but who come to Ticketmaster asking to use the tools we have developed to help them direct the tickets to their shows securely and in the manner that best serves their interests. Artists have also asked us to support their onsales through other ticketing providers with Verified Fan. Rival promoters also regularly choose to have their shows ticketed by Ticketmaster based on product quality. An example is Another Planet Entertainment, the top independent promoter operating in the San Francisco Bay area and Northern California, whose founder Gregg Perloff was quoted in 2018 as follows:

"[W]e use Ticketmaster and a lot of people told us how can you use your competitor's ticketing company. We made a decision after interviewing all the different ticketing services that for us—cause we did general admission and reserved seat shows—that if you take away whether Ticketmaster is involved with Live Nation or not, Ticketmaster for all the abuse they take is the best ticketing company in the world, and if what we are trying to do is to sell tickets and make it that somebody can actually buy a ticket and get the right seat we decided—and I worked with Ticketmaster before they merged—that we would stay with them in spite of the fact that so many people, particularly independent promoters were telling us we were out of our minds."

Ticketmaster also faces far more competition today than it did at the time of the merger, so it cannot afford to be complacent. This was addressed in Mr. Berchtold's testimony. SeatGeek alone provides stiffer primary ticketing competition than any Ticketmaster rival in 2010. This is evident in more than wins and losses—Ticketmaster wins the most because it has the best product by far. It is evident because each time we seek to renew a venue contract we find ourselves competing against multiple credible offers in the bidding process and are forced to adjust our terms accordingly. Every year ticketing companies get a lower portion of the economic value in a ticketing contract while venues and teams get more. We can confidently say that U.S. ticketing markets have never been more competitive than they are today and, far from being complacent, we are constantly reevaluating how to remain competitive.

- 3. During the hearing, you pushed back against statistics that demonstrated that Ticketmaster had upwards of 70, even 80, percent of the concert and live event market, stating that this data was outdated. Please explain what percent of the overall ticket marketplace is controlled by Ticketmaster.**

- a. **What percent of the primary ticket marketplace does Ticketmaster control?**
- b. **What percent of the secondary ticket marketplace does Ticketmaster control?**
- c. **What percent of the ticket marketplace for sports does Ticketmaster control?**
- d. **What percent of the ticket marketplace for live entertainment does Ticketmaster control?**

We fully appreciate the interest in our market shares, which are the subject of multiple QFRs. It is difficult, however, for any one company to accurately or reliably estimate shares since they depend on the often unknown and confidential sales information of competitors. The determination of whether any segment or subsegment is a "relevant market" also requires data not available to Ticketmaster.

What we are able to say is what Mr. Berchtold said in his testimony: our best estimate is that our share of any plausibly defined primary ticketing market does not exceed 50-60%. It will be lower if sports are included with concerts in the market definition, as it should be. Despite our alleged dominance, Ticketmaster has lost, not gained, market share since the merger. Given the robust competition Ticketmaster faces every day, we respectfully disagree that we "control" any portion of a relevant primary ticketing market.

Ticketmaster's market share in secondary ticketing is very difficult to determine because of major, non-public companies participating in the space. We believe our share is likely in the 20-25% range. That would include concerts and sports in the market, which is undoubtedly required with respect to secondary ticketing.

**4. At the hearing, Mr. Groetzinger indicated the NFL has an open API that allows a variety of ticket vendors to all compete for their business. They do not have a "digital rights master" and it is working successfully.**

- a. **Can this model be transferred to venues and entertainment of all types?**
- b. **If not, why not?**

The technology that Mr. Groetzinger referenced is an API that the NFL commissioned to facilitate resale of its tickets. It is not "open" to the industry, but rather only available to the NFL's business partners. It is a bespoke implementation with underlying contractual commitments from the ticketing participants that is expressly designed to protect the rights of the content owner (here the NFL) to control the means by which tickets to its events are sold and

resold among fans. We wholly support technology that ensures that content owners can determine how their tickets are sold. We also support, and indeed have pioneered, the development of technology that protects fans from fraud and abuse. We do not support any concept of an “open API” that would advance fraudulent resale practices or encourage ticket arbitrage.

**5. What is the justification for Ticketmaster retaining central control over the transferability of tickets?**

**a. Why must consumers create a Ticketmaster account to receive a transferred ticket?**

Historically, the secondary ticketing market has been plagued by widespread fraud. Scammers could acquire a single legitimate ticket with a barcode (often embodied in a .PDF file) and copy it, selling each copy to a different unsuspecting fan. While each ticket appeared valid, on the day of the event, only the first person to use the barcode would be allowed into the event; the other buyers would be turned away at the door.

SafeTix is Ticketmaster’s solution to that problem. It ensures that, at events where the technology is used, when a ticket is transferred from one party to another, the recipient can be confident that they will in fact be allowed in, because no one else can be digitally authorized to enter in their place. The product works by virtue of a protected registry which ties each ticket to the identity of the bona fide ticket holder. When a legitimate transfer occurs, the registry is updated accordingly. As a result, no ticket can be sold to more than one person at a time.

In order for that technology to operate—that is, for the registry to serve its role in preventing fraud—a small but irreducible amount of information about each ticketholder is required. When the recipient of a SafeTix ticket already has a Ticketmaster account, that account already has the necessary information and is thus used to authenticate the purchaser. When the recipient of a SafeTix ticket does not already have a Ticketmaster account, Ticketmaster collects a limited amount of information in order to be able to confirm that the new ticketholder is who they say they are: an email address, name, phone number, and zip code.

**Senator Grassley**

- 1. Constituents have expressed concerns that Live Nation surprises consumers with large fees that are often hidden until after they've chosen their ticket and put in their information. In your testimony, you suggested all-in-pricing legislation so consumers can know up front what is their total ticket price. SeatGeek already uses all-in-pricing. What is preventing Ticketmaster from doing the same?**

Ticketmaster has long advocated for transparency in ticket prices and has no desire to surprise consumers. Ticketmaster is fully prepared to adopt all-in pricing for our customers—we advocated for and celebrated the adoption of legislation mandating all-in pricing in New York, and we operate successful ticketing marketplaces in countries all over the world where all-in pricing is legally required. Our experiences in these markets have taught us that all-in pricing is both an excellent way of promoting transparency for fans, and a system that works best if all actors in the market have adopted it.

As for the comparison with SeatGeek, there is some misunderstanding. In general, Ticketmaster and SeatGeek take a similar approach to how prices and fees are reflected on each website. For all-in pricing to work, we believe that all members of the live event ticketing industry should be required to use it—that's the only way that consumers will be able to easily compare prices across different sites as they shop for tickets.

- 2. Constituents have expressed concerns over the large number of bots and scalpers that obtain tickets and re-sell them at an enormous price. What are Ticketmaster's plans to address this problem going forward to protect fans?**

We never publicly state how precisely we fight bots, as doing so would give bad actors a playbook to cheat the system. In general, we have developed sophisticated methods to determine in real time whether a call on the Ticketmaster system exhibits characteristics we have previously associated with bots and actors using bots. We would be happy to arrange a confidential briefing on this subject.

**Senator Klobuchar & Senator Lee**

- 1. According to testimony from Mr. Mickelson, 87% of Billboard’s Top 40 Tours in 2022 were performed at venues ticketed by Ticketmaster in the US. Do you dispute this number? If so, please explain why and provide documents in support of your position.**
- 2. According to testimony from Mr. Mickelson, 87% of NBA teams, 87.5% of NHL teams, and 93% of NFL teams have exclusive ticketing agreements with Ticketmaster. Do you dispute any of these numbers/ If so, please explain why and provide documents in support of your position.**
- 3. In 2018, the *New York Times* reported that Live Nation tickets 80 of the top 100 arenas in the country. How many of the top 100 arenas does Live Nation ticket today?**
- 4. Approximately how many concerts per year do Live Nation and Ticketmaster serve as both the promoter and ticketer?**
- 5. You testified that Paciolan is one of Ticketmaster’s competitors. How many venue contracts for ticketing services has Ticketmaster lost to Paciolan in each of the last three years? For each, please provide the venue name and approximate size.**
- 6. In the past three years, has Live Nation entered into any agreements with venues where the contract term for ticketing services is longer than five years? If so, please provide a list of those venues and the contract term lengths.**
- 7. Live Nation is subject to a consent decree that bars Live Nation from retaliating against a venue for using another company’s ticketing services, and from threatening to retaliate for such choosing of another ticketing company. Will Live Nation commit to third party audits to confirm that it is neither threatening to retaliate or actually retaliating against venues that select other ticketing services providers in 2026 and beyond?**

As noted in response to other QFRs, we fully appreciate the interest in market shares. The various data points we are asked to confirm are what critics like to cite as evidence of Ticketmaster’s alleged monopoly power. We respectfully dispute the utility of these arguments for several reasons. First and foremost, monopoly power is properly understood as the ability of a firm to maintain prices above competitive levels because the firm is insulated from competition from new entrants or expansion by existing competitors. It has long been held that even a 100%



market share will not prove monopoly power (even assuming the “market” is defined properly) if the firm lacks the ability to maintain prices above competitive levels. That perspective is necessary because some firms have very high market shares, “monopoly shares” even, on the merits of their products and services, or sometimes simply because they established a large share in the absence of meaningful competition.

In 2009, prior to the Live Nation-Ticketmaster merger, Ticketmaster had an extremely high market share in primary ticketing: 80-90% depending on how the market was defined. But that was 13 years ago. The relevant questions today are (a) whether Ticketmaster has been able to maintain that share in the face of new entrants and expansion by existing competitors, and (b) whether Ticketmaster has been able to maintain prices above competitive levels. The answer to both questions is “no.”

It is difficult for any one company to accurately or reliably estimate shares since they depend on the often unknown and confidential sales information of competitors. The determination of whether any segment or subsegment is a “relevant market” also requires data not available to Ticketmaster. Nevertheless, we stand by what Mr. Berchtold said in his testimony: our best estimate is that our share of any plausibly defined primary ticketing market does not exceed 50-60%. It will be lower if sports are included with concerts in the market definition, as it should be. Despite its alleged dominance, Ticketmaster has lost, not gained, market share since the merger—strong evidence that it *lacks* monopoly power.

It is important to recall that competition for primary ticketing contracts takes place through competitive bidding. There is general agreement that in bidding markets “backward looking” measures of market power such as shares are less important than evidence that bears on the intensity of current bidding. Particularly where quality varies, there is a logical competitive outcome in which the best firm wins much more often than others, *but at competitive prices* rather than the supracompetitive prices that infer monopoly power. That is what one witnesses in primary ticketing. Ticketmaster is far and away the best product—the product that a large majority of customers want to buy and will buy if they can get it at a competitive price. That said, our competitors in this space include well-financed, multi-billion dollar companies. Robust competitive bidding from firms such as SeatGeek, AXS and Paciolan (in the college sports niche) creates the credible threat that requires Ticketmaster to offer competitive prices and terms and conditions. Ticketmaster loses far too often to ignore the threat. As just a few examples of the robust competition we face, since 2010 our rivals SeatGeek, AXS, and Tickets.com have gained at least 33 major league sports venue contracts. And in this setting, Ticketmaster has most certainly not been able to maintain prices above competitive levels. Ticketmaster’s share of the value of a ticketing deal has steadily declined in recent years as competition has intensified. Once again, that is strong evidence that Ticketmaster lacks monopoly power.

We cannot confirm Mr. Mickelson’s claims about large tours and sports leagues. It makes sense that Ticketmaster would serve many of the largest tours—regardless of who promotes those tours—because many artists and many of the venues that host the largest tours exhibit a strong preference for Ticketmaster’s services. *See Dave Brooks, Barclays Center Ditched*

*SeatGeek for Ticketmaster After Recurring Tech Issues*, Billboard (1/26/23), <https://www.billboard.com/pro/barclays-center-seatgeek-ticketmaster-change-tech-issues/>.

Ticketmaster's performance in large onsales is without peer, it has the best marketing capabilities of any ticketing system, and it is far and away the leader in preventing fraud and getting tickets into the hands of real fans. Ticketmaster also has a strong customer proposition for sports leagues and teams. However, none of numbers Mr. Mickelson provides for sports leagues is correct. In the time available we have been unable to confirm the *New York Times* numbers.

In the time available we have been unable to determine how many concerts per year Live Nation promotes while Ticketmaster provides ticketing. It certainly happens often, but to be clear the promotions and ticketing businesses are managed separately, and the company does not use any influence it has over tour routing to influence competition for ticketing contracts, or vice versa.

With respect to Paciolan, it dominates primary ticketing for college sports. The company claims to ticket 160 colleges and universities, including 80% of the Power Five conference schools and at least 20 top college programs. It claims to have sold more than 120M tickets last year. It also has a substantial presence in performing arts venues and arenas. Very recently, Paciolan entered into an agreement with SeatGeek to be its new secondary college ticket market partner.

Ticketmaster would be pleased to share confidentially data on contract lengths.

Live Nation does not need to be subject to a consent decree or any similar legal obligation to refrain from retaliating against a venue for using another company's ticketing services, and from threatening to retaliate for such choosing of another ticketing company. Live Nation has no interest in such practices, which are wholly incompatible with our artist-first focus and our business ethics. That sort of behavior will always be against Live Nation policy.

**Senator Lee**

- 1. Will Live Nation commit to offering fair, reasonable, and non-discriminatory API access to legitimate secondary ticketing services to facilitate the safe and easy transfer of tickets without limiting customers to the Ticketmaster app? If not, why?**

Respectfully, the question is too general for us to answer yes or no. Our history shows that we are not using API access to protect Ticketmaster's position in secondary ticketing. During the January 24, 2023, Judiciary Committee hearing, we discussed specific API technology that the NFL commissioned to facilitate resale of its tickets. We embraced that technology because it advanced our customer's business goals, was part of a broader deal structure that made sense for Ticketmaster, and the project was entirely consistent with our mission to eradicate fraud and protect the rights of the content owner (here, the NFL) to manage the means by which tickets to its events are sold and resold among fans. We have discussed similar integrations with other sports leagues and their authorized secondary ticketing services.

We have no interest in supporting API technology that facilitates fraudulent and speculative ticketing practices on supposedly "legitimate secondary ticketing services." In support of and at the direction of content owners, we would most likely condition any API on the reseller's willingness to abide by artist directions on how resale is conducted and provide reasonable compensation to Ticketmaster, which is the sports model. But insofar as no secondary ticketing service has made a commercial proposal for API access, we cannot really say how we would respond to such as request.

- 2. In your submitted testimony, you included letters from artists and venues in support of Live Nation, including one from Garth Brooks. I really like Garth Brooks, but it's hardly standing outside the fire for a billionaire performer like Brooks to defend working with Live Nation. He even refers to himself in the letter as "an entertainment company"—the bargaining leverage is vastly different than between Live Nation and bands like Lawrence. How are small, independent performers supposed to protect their interests in the face of Live Nation's massive market position?**

Of course the observation is correct that artists vary in their popularity and market power. Not everyone is Garth Brooks. But we would respectfully disagree with the proposition that someone who started out small and then became today's Garth Brooks does not have standing to weigh in on the issues we are discussing. Mr. Brooks knows a great deal about the industry, about Ticketmaster, and about the destructive effects of today's industrial-scale ticket scalping.

Live Nation is invested in the success of artists and their live events throughout their careers, and it wants nothing more than for them to succeed. Smaller, independent performers have always faced daunting challenges trying to grow their audience and sell more tickets. The fact remains that for most shows, tickets never sell out. And today consumers are choosing

among more entertainment options than ever before, both within live music space as well as other forms of entertainment on social platforms, TV shows, and other content. Live Nation's mission is to help artists of all sizes connect with more fans. That is why Live Nation has invested billions of dollars funding artists globally—more than \$8 billion in 2022 alone. We only succeed when artists do first.

Artists also have choices when it comes to choosing a promoter for their next show or tour. This has never been more true. Today, Live Nation faces significant competition for live event promotion from companies such as AEG Presents, Outback Presents, Another Planet Entertainment, LiveStyle, and many more. Small, independent performers also have the choice of working with local promoters—further expanding their competitive options. If they do not wish to play Live Nation venues, they have thousands of other choices—Live Nation only operates 4% of the music venues in the United States.

**3. Does Live Nation take into consideration a venue's primary ticketing vendor when determining where or when to schedule live concerts?**

Several factors inform artists' choices of where to perform. The main factor is venue capacity and configuration. Which venue gives the artist the best chance of selling the most tickets at the best pricing? Other factors include: the venue's location, reputation, demographic base, technological capabilities, acoustics, and availability—as well as the fans' concert-going experience, the artists' prior experience at the venue, and the venue's notoriety based on other artists having played there. Promoters consult with artists on venue selection and tend to focus on the same factors.

Artists and promoters give some consideration to the ticketing provider a venue uses because the ticketing system can affect the likelihood of a sellout. Among its other features, the ticketing platform is a marketing engine and the ability to market shows effectively is important to promoters, since they are the principal risk-bearing actors in the live entertainment ecosystem. Some artists also want the features that Ticketmaster offers, such as Verified Fan, to get tickets to real fans rather than bots and scalpers. That said, the ticketing system is just one factor bearing on the likelihood of a successful concert, and rarely determinative.

Live Nation content categorically is not dependent on whether the venue uses Ticketmaster.

**4. In 2020, the Justice Department extended your consent decree by another five years after identifying a number of violations. You have insisted that Live Nation does not have the incentive to pressure venues into using Ticketmaster or vice versa, but the violations prove that some Live Nation employees do in fact see the incentive. How do we know there are not even more venues out there that have been pressured by or faced retaliation from Live Nation, but which are simply too afraid to speak up?**

Live Nation does not pressure venues or threaten retaliation to keep them from “speaking up.” That is a fiction created by those who understand that a handful of alleged Decree violations over 12 years does not make for a compelling argument that Live Nation habitually engages in these behaviors. Among other failings, the argument ignores that under the Amended Decree there are robust processes for reporting potential violations to the Outside Antitrust Monitor confidentially.

- 5. In your testimony, you stated that it is Live Nation’s “policy that if an account is established solely for the purposes of receiving a ticket, we do not use that data for purposes of marketing.” In a further exchange, you stated that, “in the context of the event itself, I believe there is some ability to reach out to connect with those fans.”**
- a. Please explain how you know that a consumer opened an account “solely for the purposes of receiving a ticket.”**
  - b. Please provide a copy of the company’s written policies pertaining to data collection and marketing 1) to consumers who purchase tickets directly from the company and 2) to consumers who purchase tickets on a third-party resale platform but then register for a Ticketmaster account in order to take possession of the tickets that they purchased on the third-party platform.**
  - c. Does your company or any of your venue clients use data obtained from resale customers through the ticket transfer process for marketing purposes? Does your company use data obtained from resale customers, such as customers’ event preferences, to target those customers in a different way in future communications?**
  - d. Does Live Nation use information collected from a secondary ticketing company’s customer as part of a resale transaction to compete with secondary ticketing companies? If so, does Live Nation believe that the antitrust laws permit a company with the market power of Live Nation to compel current or potential competitors to share customer data in order to access the marketplace?**
  - e. Does the data that Live Nation collects from consumers give it a competitive advantage over its rivals? If so, does this barrier to entry further entrench Live Nation’s market power? If not, in which case the data would seem to be of little use, will Live Nation commit to minimizing the data it collects and retains on consumers?**

Nearly all SafeTix transfers are to consumers who already have Ticketmaster accounts. The very small amount of incremental data Ticketmaster obtains through accounts established

merely to receive SafeTix transfers would not give Ticketmaster a significant competitive advantage were it used for marketing, which it is not. There is no written statement of this policy. It was a decision made by Live Nation because rivals were complaining about the supposed competitive advantage of using the data, when in fact the amount of incremental data is so small that conflict over the issue serves no purpose.

There are different ways to discern that an account was established for ticket transfer only, but the principal signal is that there is no activity in the account except for a free transfer.

Every ticketing company, primary and secondary, uses consumer data for marketing. Curated messaging based on purchase histories and other signals is intended to help artists stay connected with their fans, and ensure that fans are kept informed of upcoming concerts and events that they might be interested in. That data is always within the consumer's control—they can unsubscribe or update their preferences at any time. In every case, Ticketmaster fully complies with the antitrust laws and exceeds industry standard consumer privacy protections, as well as GDPR, CCPA, and all other applicable data use regulations. Additional details regarding Ticketmaster's approach to consumer data are outlined in its privacy policy, which is available here: <https://help.ticketmaster.com/s/article/Ticketmaster-Privacy-Policy>.

The suggestion that Ticketmaster somehow forces its resale competitors to turn over "their customers' data" is incorrect, but the implication that this might be anticompetitive is altogether baseless. As explained before, all legitimate resale marketplaces benefit from SafeTix and secure digital ticket transfers.

**6. In your testimony, in response to the question, “do you have any plans to restrict the resale ability of digital tickets through third party entities like StubHub or others?” you replied that, “we do believe that the artists should have the right to set the rules” on transferability.**

**a. You did not, however, acknowledge that artists who request non-transferable tours are often managed by Live Nation. Please detail how Live Nation advises artists under its management on ticket transferability.**

**b. Why should the preferences of artists trump the welfare of consumers and preferences of the free market?**

Ticket transferability restrictions remain uncommon in Live Nation’s experience. The vast majority of shows take place without any significant restriction on who can resell tickets and at what price.

On the rare occasion when artists do choose to restrict transferability, there are a wide range of reasons why they may do so, including:

- The artist has deliberately set ticket prices low and wants to ensure that fans who attend the show pay only the face value and no more;
- The artist has chosen to distribute tickets to their fan club or in a similarly targeted approach and wants to ensure that the fans who show up are the ones who actually have that connection to the artist;
- The artist wants to diminish the incentive for scalpers to use bots to disrupt the primary onsale, which leads to disappointed fans who may blame the artist at least in part; or
- The artist is opposed to ticket scalping and wants to prevent scalpers from getting rich on the artist’s music and performance.

These opinions tend to be very personal for the artists. If Live Nation is the promoter, it may talk through the pros and cons of restricting transferability with the artist but there is no general Live Nation position one way or another. Again, the great majority of Live Nation promoted shows have no transferability restrictions. If it were Live Nation’s agenda to push ticket transferability restrictions and its position as a promoter gave it the ability to do so, one would think the practice would be widespread. It is not.

We disagree strongly with the suggestion that facilitating an artist's desire to minimize scalping by using our restricted transfer technologies "trump[s] the welfare of consumers and preferences of the free market." This is a principal talking point of the major secondary platforms but there is absolutely nothing about scalping that promotes consumer welfare or a free market. Scalpers do not remedy a market imperfection, as they like to argue. They raise prices to consumers, transferring in return tickets that were meant to be less costly. There are exceptions, most notably in sports where teams use legitimate ticket brokers as a form of distribution. But the bot-driven, industrial-scale scalping of concert tickets that we witness today imposes enormous losses on consumers with no gains except for the scalpers themselves and the resale sites that support them.

There are tools that simultaneously allow artists to cut out scalpers, while also giving fans options to resell their tickets if need be. One of the key examples is a face value exchange, which is a tool Ticketmaster built so that fans can resell tickets at exactly what they paid. This gives them resale options, while preventing scalpers from profiting by marking up tickets. In order to enforce such benefits, tickets can only be bought and sold on marketplaces willing to follow the terms set by the artist—which usually is only Ticketmaster.

**7. Has Ticketmaster, Live Nation, or a subsidiary or agent of either entity ever instructed a third-party resale marketplace not to facilitate sales for certain tours? If so, please describe each such instance in detail.**

Occasionally artists or promoters will ask each primary ticketing company that they are working with that also has a secondary site (e.g., Ticketmaster and SeatGeek) to delay turning on resale until primary sales have reached a certain threshold. This is a form of channel management. Live Nation has made such requests, and Ticketmaster has received such requests from artists and other promoters.



**Senator Padilla**

- 1. In 2016, Congress passed the Better Online Ticket Sales Act to thwart attempts by individuals and organizations to automate the process of purchasing tickets en masse using ticket bots. Since the passage of the law, the Federal Trade Commission and Department of Justice have announced only one enforcement action of the law. In your testimony, you highlighted the challenge that bots posed in facilitating Taylor Swift presale ticket sales.**
  - a. In your testimony at the hearing, you shared with the committee that Ticketmaster worked with the FTC to report one instance of bots on your system since 2016. Is that correct? If so, why not refer more instances to the FTC?**

In his testimony before the Judiciary Committee, Live Nation President Joe Berchtold referenced one example of our collaboration with FTC in the fight against bots. If that left the impression that we have only reported one instance of bots to the FTC, we welcome this opportunity to clarify matters. In fact, we have approached the FTC on multiple occasions to report bots, and have asked that they enforce the laws against bots, including the BOTS Act. The FTC is well aware that bot attacks occur all the time. The problem we are all facing is not that bot attacks are underreported, nor that the FTC does not take the issue seriously. It is that it is exceedingly difficult to use any U.S. legal procedures to address a problem that makes use of the internet and bot farms largely outside the U.S.

The BOTS Act lacks a private right of action. (There was some confusion about that during the hearing, but it does not provide such a right.) Ticketmaster has nevertheless filed a variety of lawsuits relating to the illegal use of bots on our platform—when we are able to identify a perpetrator over whom we can obtain jurisdiction. Each of these lawsuits resulted in our obtaining a permanent injunction preventing these actors from continuing to abuse our platform at the expense of fans. We would welcome adding a private right of action to the BOTS Act enforcement scheme. We would make use of it. In all events, our commitment to fighting bots is second to none. Trying to blame Ticketmaster for a problem that it fights more than anyone else serves only the scalpers and their resale marketplace partners.

- b. In your testimony, you shared that since 2010, your company has invested over \$1 billion to improve the Ticketmaster system and that the company invests millions in anti-bot technology every year. In 2022, the company reported over \$15 billion in revenue. How much money did you invest in 2022 to address the problem of bots acquiring tickets?**

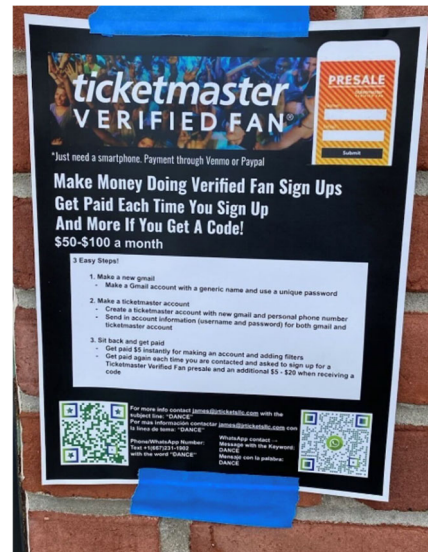
Given the nature of the technologies that we invest in, and the multi-year costs incurred, we have no ready way to quantify these investments by year. That said, we are always working on better ways to fight bots, and in 2022 alone, we invested more than \$100 million in product

and technology maintenance and upgrades. Further, over the past five years—including the COVID pandemic when the live entertainment business was essentially shut down—we have invested \$900 million in a variety of digital infrastructure upgrades, Amazon Web Services (AWS), licensing, hardware, and relevant staff that makes us overall better equipped to handle modern commerce and the constantly evolving cyber threats that we face.

**c. What challenges are you currently facing in combating bots on Ticketmaster?**

As we have often said, the fight against bots is in the nature of an arms race, with the bad actors developing workarounds to every new tool we develop, after which we come up with a new innovation, and so on *ad infinitum*.

We constantly upgrade our capabilities, but the bad actors constantly look for new ways to break through our defenses. For example, we are very proud of our Verified Fan product, which is the industry-leading technology in these efforts. By pre-registering fans, we move the onsale to secure servers accessible only with codes unique to each registered fan. So what has happened now? As you can see in the photo, brokers are recruiting individuals to pose as Verified Fans. Needless to say, we are investigating and will follow-up with appropriate authorities, but this gives one a sense of the challenges. We nevertheless continue to innovate and adapt: the recent Beyoncé onsale is an example of this, and an indicator of how these efforts are already paying off. We implemented a new approach to the Beyoncé onsale, including by separating Verified Fan registration into groups of cities. Though demand for Beyoncé’s Renaissance World Tour exceeded supply of available tickets by over 800% in some cities, we nonetheless succeeded in getting tickets into the hands of tens of thousands of real fans.



We would be happy to further brief you on these challenges confidentially.

**d. What steps are you taking to investigate and pursue the purveyors of bots that tried to purchase tickets during the Taylor Swift pre-sale? Have you filed a report to any federal agencies, if not, why not?**

We have referred this issue to federal agencies and asked them to investigate. Given our understanding that there may be active investigations, we cannot provide more detail at this time. In this matter and as a matter of course, we are dedicated to working with all relevant authorities in the fight against bots.

**e. On average, how many tickets for events serviced by Ticketmaster fall into the hands of bots?**

We do not know; it is not possible to know. However, since we developed Verified Fan, we have noticed that shows serviced by that technology appear to have far fewer tickets on the secondary market than other shows. For example, for a high-demand show that did not use Verified Fan, 20-30% of the inventory might show up on resale sites; by contrast, when Verified Fan is the only distribution channel used, less than 5% of the inventory shows up on resale sites. The difference may be due to the protection from bot attacks that Verified Fan offers. If it is, the implication is that a high percentage of the concert ticket inventory on resale sites was acquired by brokers using bots.

**f. What if any changes did you see in the use of bots to purchase tickets in the wake of the passage of the BOTS Act?**

We are unable to make any cause-and-effect assessment like this. The problem has not gone away, of course.

**g. What would help you and others in the industry tackle the problem of bots in online ticket sales?**

There needs to be more attention on the connection between the brokers that use bots and the resale sites that they use to sell these unlawfully acquired tickets. Ticketmaster is the only ticketing company that makes any serious effort to find evidence of the provenance of the tickets listed on its resale site and remove the tickets and the seller when there is evidence of bot use. We do not claim to be perfect; it is very difficult to do. But in general other resale sites with which we compete do nothing. They adopt a "See No Evil" strategy that makes them a safe haven for the high-volume scalpers.

**2. Presale tickets were initially listed for Swift's Eras Tour using Ticketmaster's Verified Fan technology on November 15, 2022. When the presale opened, the pre-registered fans who had received unique codes to access the site were placed in a virtual queue. Many reported spending hours, or even days, stuck in this line, while others were kicked out of the line due to website failures. In your testimony you acknowledged that this resulted in a terrible experience for millions of Ms. Swift's fans and for Ms. Swift herself. In response to this failure, what is your company doing to fortify your systems against bots and ensure that customers and artists are treated fairly in future ticket sale offerings?**

The main cause of the problems we experienced on November 15 was an attack on the password servers that support our Verified Fan product, the industry-leading technology in the fight against bots. Our engineers developed a way to stop that attack in a matter of hours while the onsale was taking place, which is what allowed it to continue. Our mitigation measures have

held up in subsequent attacks on other onsales. That said, the number of fans affected would have been less had we staggered the onsales. We learned a valuable lesson and have adapted. For example, in the recent Beyoncé onsale we implemented a new approach of separating Verified Fan registration into groups of cities. Though demand for Beyoncé's Renaissance World Tour has vastly exceeded supply (by over 800% in some cities), we are having a successful onsale.

- 3. When purchasing tickets on Ticketmaster, consumers see two prices, the price of the face of the ticket and then additional fees associated with the cost of the ticket called "service fees." In reviewing tickets for sale in California in the coming weeks, for many tickets the service fees were as much as 50% of the total cost of the ticket.**
- a. For each show in which Ticketmaster is selling a primary ticket, how is the service fee calculated? Which parties are involved in setting the price, and how is the money from that fee typically allocated?**
  - b. Tickets include "service fees", "facility charges", and order processing fees. What do each of these fees account for? And for those shows in which the company provides ticketing services alone, from which sets of fees does Ticketmaster typically get a cut?**
  - c. Are service fees consistent for the venue or do they fluctuate by artist?**
  - d. In ticket resales, are the fees Ticketmaster charges a flat processing rate? Or does Ticketmaster charge a percentage of the total cost of the ticket?**
  - e. For venues in California in which Live Nation Entertainment does not promote the show or own or operate the venue, but Ticketmaster is used to process primary ticket purchases, what was the average total amount of service fees associated with each ticket in 2017, 2018, 2019, 2020, 2022, and 2023?**
  - f. For venues in California in which Live Nation Entertainment promotes the show or owns or operates the venue, and Ticketmaster is used to process primary ticket purchases what was the average total amount of service fees associated with each ticket in 2017, 2018, 2019, 2020, 2022, and 2023?**
  - g. Customers can typically avoid most if not all of the service fees associated with an online ticket sale if they purchase tickets directly from the Box Office of a venue. This calls into question the true need for service fees to account for costs in hosting and promoting shows.**

**In your testimony you stated that Ticketmaster does not set service fees.**

- i. In negotiating service fees for ticket sales with venues, in your experience are those fees reflective of a true calculation cost of what may actually entail a reasonable charge for the services offered by the venue? Or do they reflect what venues believe they can get away with charging their customers?**
  - ii. In 2022, what percentage of shows for which Ticketmaster facilitated ticket sales were customers unable to purchase tickets through a physical box office? Please provide this number as a percentage of total shows, as well as a percentage of the total tickets sold.**
  - iii. In 2022, what percentage of shows for which Ticketmaster facilitated ticket sales were customers unable to purchase tickets through a physical box office for Live Nation-owned or operated venues? Please provide this number as a percentage of total shows, as well as a percentage of the total tickets sold.**
- h. Do all of the venues you own or operate in California have a physical box office at which customers can go to purchase tickets in person and avoid the service fees? On average how many days per week and hours per week are Live Nation owned or operated venue box offices open for ticket sales?**
- i. Would you support legislative efforts to cap or limit service fees to what is reasonably associated with the cost of putting on a show?**

It is not possible for us to provide answers to the detailed parts of some of these questions in the available time, nor could we provide that information other than confidentially.

There is not a single answer to the questions about who sets service fees and who gets the money. Service fees are ordinarily set by venues, and venues typically retain the majority of those fees. The allocation is determined during the process of negotiating a ticketing services contract, and usually takes the form of a per-ticket fee to Ticketmaster or a percentage fee to Ticketmaster.

Nomenclature is not uniform either. Normally, "service fees" is used for the compensation for the venue and the ticketing company, "facility charges" is normally an added fee for the venue, and "order processing fees" are a pass-through for credit card fees. That said, the various silos are not sacrosanct, and given the thousands of negotiations that take place there will be

departures from these generalities. Ticketmaster's compensation is almost always a minority portion of the service fees.

Resale fees developed around a percentage of the ticket price model. There are buyer fees and seller fees, with the former typically higher than the latter.

We understand the observation about no service charges associated with some box office sales, but it would be incorrect to view service charges as directly correlated with the unit costs of allowing one fan to attend a specific show. In setting service fees, venues tend to focus on their likely ticket sales in the aggregate—i.e., all or at least numerous shows during the life of the contract, and what level of fees it will take to cover their costs. They understand that they will host shows with higher and lower ticket prices, resulting in more variation in fees than in the variable costs of hosting the shows. They understand they may not collect any fees on box office sales, if they choose not to charge such fees. It all goes into a broad calculation about what is a workable fee structure.

We do not believe that it is feasible or wise to legislate caps or limits on service fees to what is reasonably associated with the cost of putting on a show. The fees compensate two actors in the live entertainment value chain, the venue and the ticketing company, neither of which shares in the face value of the ticket or is excessively profitable. Any cap would certainly have ripple effects on other revenue streams, and it could come mainly at the expense of the venues. Venues rely on their majority share of service fees to cover their fixed and variable costs, including the many employees and independent contractors that work a show.

**4. One proposal to address industrial scalping of tickets is to cap the price at which a ticket can be resold on the secondary market. Does Live Nation believe that capping resale ticket prices would help address the scalping problem you highlighted in your testimony?**

Live Nation believes that should be an artist's choice. If artists want to bolster their decision to make tickets more affordable by designating those tickets non-transferable, only transferable at face value, or only transferable at face value plus some increment, we see no reason why they should not be able to do so. And yes, we do believe that caps would disincentivize scalping to some degree.

**5. In his testimony Mr. Lawrence alleged that Live Nation's role as both an exclusive promoter for venues the company owns or operates means that artists like himself and others do not benefit from a promoter that is aligned with their interests to keep costs low and ensure that artists are fairly compensated at the end of show. Specifically, he testified that:**

**"Far from simply advertising the show, the promoter coordinates and pays the upfront costs to put together a concert, such as renting a venue, staffing the event, and striking a deal with the performer. In**

**the live music market, our promoter should be a true partner to us. Since both our pay and theirs is theoretically a share of the show's profits, we should be aligned in our incentives: keep costs low while ensuring the best fan experience. But with Live Nation not only acting as the promoter but also as the owner and/or operator of the venue, it complicates these incentives when looking at line items in a show's settlement sheet, which ultimately determines how much each party gets paid. Think about line items like "rent" for the venue, or other more opaquely named fees like "house nut" or "facility fee." In a world where the promoter and the venue are not affiliated with each other, we can trust that the promoter will look to get the best deal from the venue; however, in this case, the promoter and the venue are part of the same corporate entity, so the line items are essentially Live Nation negotiating to pay itself."**

- a. Do you agree with Mr. Lawrence's characterization of Live Nation's role and incentives for shows in which you act as both the exclusive promoter and venue owner or operator? Why or why not?**

Live Nation does not agree with Mr. Lawrence's characterization of Live Nation's role or incentives. Live Nation is proudly and foremost an artist-first company. And as one of the world's most trusted promoters of live events, Live Nation prides itself on offering artists the best experiences to connect with their fans, and artists count on Live Nation to do so. Live Nation is always looking for ways to further improve its services to artists, and to better compete against its competitors. Live Nation owns or operates a very small number of venues in the United States and does not own or operate any of the largest arenas or stadiums. Specifically, of more than 4,000 venues in the United States, Live Nation operates only about 200. These venue relationships allow Live Nation to offer artists yet another option for their upcoming tours or shows.

We also respectfully disagree that artists are disadvantaged when one company acts as both the exclusive promoter and venue owner or operator. That is a very common combination of interests in live entertainment. It is the most efficient way for some smaller venues to operate. Jam Productions, Ltd., Mr. Mickelson's company, has these dual roles with regard to several venues in Chicago. In many cases, Live Nation is able to offer artists a better quality service and a greater share of an event's profits by eliminating the added coordination and financial costs that come with renting a third-party venue. Live Nation knows that artists have a choice when it comes to choosing a promoter for their next tour or show, and so Live Nation works hard to offer artists the best experience and financial package it can.

- 6. During the hearing the Mr. Lawrence alleged that the settlement sheet they receive at the end of a show does not fully explain what costs like "facility fees" and others are for, and that this kind of documentation is not available to them ahead of the show. You affirmed that transparency should be**

**available to Mr. Lawrence and other artists. Does Live Nation commit to ensuring that artists like Mr. Lawrence are fully aware of what the costs on settlement sheets are for, and to providing artists this kind of information ahead of shows?**

Live Nation strives to be as transparent as possible with artists about the services it provides, including before an artist even chooses to work with Live Nation. Live Nation is always happy to explain contract terms, rate cards, settlement sheets, or answer artists' questions to ensure they understand the terms of their agreement with Live Nation. It is also important to recall that most artists work through an agent that has deep familiarity with industry norms and the major players' practices, including Live Nation's.

**7. Please list all of the venues Live Nation Entertainment owns or operates in California.**

Amphitheaters:

Shoreline Amphitheatre (Mountain View)  
Concord Pavilion (Concord)  
FivePoint Amphitheater (Irvine)  
North Island Credit Union Amphitheatre (San Diego)  
Glen Helen Amphitheater (San Bernardino)  
Toyota Amphitheater (Wheatland)

Large Indoor:

Hollywood Palladium (Los Angeles)  
The Masonic (San Francisco)  
The Wiltern (Los Angeles)

Clubs:

Ace of Spades (Sacramento)  
Belasco (Los Angeles)  
Echoplex (Los Angeles)  
Echo (Los Angeles)  
Observatory OC (Santa Ana)  
Observatory SD (San Diego)  
The Fillmore (San Francisco)  
House of Blues (Anaheim)  
House of Blues (San Diego)

Cobbs Comedy Club (San Francisco)  
Punch Line Comedy Club SAC (Sacramento)



Punch Line Comedy Club SF (San Francisco)

Joint Venture – Live Nation has a majority percentage, but a partner operates the venue:

Peppermint Club

City Management Deals – Live Nation operates for fee on behalf of City:

Fox PAC ( Riverside)

RMA (Riverside)

Magnolia (El Cajon)

**8. Please list all of the venues for which Live Nation is the exclusive promoter in California.**

There are seven such venues, and we would be pleased to provide the names confidentially.

**9. Please list of the venues for which Ticketmaster is the exclusive ticket sale operator in California.**

Throughout the United States, including California, venues typically award ticketing services contracts through a competitive bidding process where the winning ticketing service provider is granted an exclusive contract for a period of time. Most of Ticketmaster's venue contracts in California are like this. We would be pleased to provide the names confidentially.

**Senator Tillis**

**1. Do you currently have the necessary tools, be it legislative (e.g., the Better Online Ticket Sales Act), legal, and/or technical, to stop bots from impacting your platform? If not, what more is needed?**

We believe that the BOTS Act was an important first step, but that its scope and enforcement mechanisms could be improved. We support broadening the scope of the provisions defining what practices are unlawful, making it harder for resale sites to ignore the provenance of the inventories on their marketplaces, and providing a private right of action.

That said, the more effective solution to bots lies in making scalping harder and less attractive. Bots are simply a means to an end: they capture inventory to use in large-scale online ticket arbitrage. The many scalper-friendly business practices prevalent on some secondary marketplaces (not Ticketmaster) therefore need to be addressed. For example, there should be federal legislation prohibiting a secondary ticketing exchange platform/reseller from:

- Advertising/representing to have the initial ownership rights to a ticket before its public sale;
- Reselling a ticket without first disclosing to the purchaser the location of the seat or area of the ticket; and/or
- Reselling a ticket or advertising a ticket for resell unless the reseller has the ticket in their possession or has a written contract to obtain the ticket from a person who has the initial rights to the ticket.

We also support federal legislation that clearly empowers artists and other event providers to set the rules for the resale of tickets to their shows and games. The legislation should provide that no State law may deprive artists of this power.

**2. What steps does your platform currently take to prevent bots from purchasing tickets?**

As stated in response to other QFRs, we would be happy to provide a confidential briefing on that subject, but it is not something we can address publicly.

**3. What limitation, if any, does your platform place on the number of tickets that can be purchased from the same account?**

Ticketmaster follows whatever directions it receives from artists about ticket limits. Ticketmaster has an active program to enforce ticket limits, which includes extensive efforts to link credit cards and other data points to the same account.

**4. What steps does your platform take to identify duplicative accounts, where the email and/or username for these duplicative accounts may differ, but the person behind the account is the same?**

We would be pleased to brief you on these efforts. It is not something that we can address publicly.

**5. What steps will you be taking moving forward to address these issues?**

We would be happy to address this in a confidential briefing.

**6. Please describe how exactly your "Verified Fan" system works to prevent bots on your system? How is this different from other shows?**

Verified Fan is one of Ticketmaster's premier innovations; it protects real fans from bots used by unscrupulous resellers to buy tickets before fans can in order to resell them at vast premiums on secondary platforms. While Verified Fan does not guarantee that all fans will be able to get tickets to a given show, which would be impossible for many events given the level of demand, the technology is designed to weed out bots and brokers and get tickets to real fans. To date, in over 400 Verified Fan onsales, the system has been highly effective. We observe far fewer tickets on resale markets when Verified Fan is used than when it is not used.

Verified Fan consists of three steps: (1) Registration, (2) Verification, and (3) Access Code or Waitlist. During step (1), a fan lets us know that they are interested in purchasing tickets to a show by signing into their Ticketmaster account and selecting the relevant show. They then receive a confirmation email letting them know that they have signed up. In step (2), Ticketmaster vets each request by evaluating whether it appears to have been made by an individual, not a bot, and checking that the user's account is not associated with any irregular behaviors in past sales that would suggest a professional reseller. Finally, for shows with particularly high demand, some fans receive access codes via a lottery-style process while others are placed on a waitlist. Fans are advised of which group they are in before the sale.

**7. How do you decide which shows will use the "Verified Fan" system? Why isn't the "Verified Fan" system used for all of your shows?**

Ticketmaster does not decide when to use Verified Fan. Artists choose whether they will use the Verified Fan system for their shows, and we honor their choice. We have found that the Verified Fan product is especially suitable for larger onsales with high demand, where there is a more acute threat of bots and resellers targeting tickets. That said, we do not limit artists from enabling Verified Fan when they chose to use it for any show.

**8. How have you validated and tested the “Verified Fan” system?**

Yes. Verified Fan has been deployed on behalf of artists more than 400 times since 2017, and those campaigns are subject to rigorous monitoring and evaluation in an effort to improve the program and ensure it serves fans. We measure key performance indicators including, but not limited to, registration rates, email engagement rates, participation rates for selected fans, purchase rates and most importantly, secondary market listings as a percentage of tickets sold to Verified Fans. We also monitor qualitative responses, especially on social media, to ensure our messaging is appropriate and increases fan understanding and awareness. Finally, we regularly undertake customer satisfaction surveys where particular focus is placed on fans who have participated in the program. Verified Fans are Ticketmaster’s highest “Net Promoters,” which is a measure of the percentage of customers likely to recommend a company’s products or services.

**9. When someone is able to purchase a ticket who is not a “Verified Fan,” where does the failure typically occur?**

Tickets are only sold to registered Verified Fans. As discussed elsewhere, we are experiencing a small scale issue with brokers recruiting individuals to pretend to be buying tickets for themselves. We do not believe that affects meaningful ticket volumes.

**10. Can you please explain your understanding of the term “holdbacks” and whether Live Nation engages in this practice? And if so, why?**

Artists make a variety of decisions regarding how best to allocate and price tickets for their tours and events. The term “holdback” refers to the standard industry practice wherein artists, venues, or teams hold a reasonable number of tickets for production or customer service issues, friends, family, and sponsors from being released during the onsale. If these tickets are ultimately unused for those purposes, they may, and often do, release them for sale to the general public at a later time.

As a general matter, however, artists want to get tickets into the hands of their most ardent fans. And it is in no one’s interest to “hold back” tickets to the point that they go unsold. The tools Ticketmaster makes available to artists and other event organizers are designed to maximize the probability of a sell-out at appropriate prices, and to ensure that access to tickets is convenient, fair, and equitable for the stakeholders the event organizers prefer to engage. It will rarely be possible to achieve those goals in stadium and arena tours without broad participation by the general public.

Additionally, the concept of “holding back” tickets might appear to imply that all other tickets are made available at once, with the only exceptions being those held back by the artist or venue. In reality, there is rarely one primary onsale date for a major event—artists often choose to market different tranches of tickets on different days to different groups of fans, making use of tools like Verified Fan onsale. In every case, Live Nation believes that fans and the live

events industry as a whole are best served by letting the artist make the decision about how they want their tickets to reach their fans.

**11. Please explain how you can and if you will increase transparency regarding the various costs listed on a "settlement sheet," which is provided to artists on the backend? Also, will you implement a means by which to provide this information, to artists before events occur?**

Live Nation strives to be as transparent as possible with artists about the services it provides, including before an artist even chooses to work with Live Nation. Live Nation is always happy to explain contract terms, settlement sheets, or answer artists' questions to ensure they understand the terms of their agreement with Live Nation. It is also important to recall that most artists work through an agent that has deep familiarity with industry norms and the major players' practices, including Live Nation's.

**12. Do you think that greater transparency in ticketing will improve the ticket purchasing experience for consumers? Please explain your thinking.**

Undoubtedly. We welcome greater transparency in the ticketing industry, and have supported legislation providing for just that. Perhaps the most important area for heightened transparency is in ticket prices, which is why we support all-in pricing legislation. As we said during our testimony before this Committee, Ticketmaster is prepared to adopt all-in pricing for our customers. We celebrated the adoption of legislation mandating all-in pricing in New York, and operate successful ticketing marketplaces in countries all over the world where all-in pricing is legally required.

**13. The process of transferring ownership of a ticket can be confusing and cumbersome for consumers.**

**a. What can be done to streamline this process for consumers?**

Ticketmaster works hard to make transfer easy and straightforward, and in the rare case when an artist decides to limit transferability, we always ensure that fans are informed multiple times about what those restrictions are and if/how transferability will be allowed.

Reselling tickets through Ticketmaster is simple. A fan who wants to sell their tickets begins by entering their ticket details through a barcode, or by listing them directly from their Ticketmaster account. When the fan selects a price for the tickets, Ticketmaster breaks out the details so that the fan always knows exactly how much they'll earn from the sale. Creating a listing is always free, and a service fee is only collected if a buyer is found. No matter where the fan chooses to sell their tickets, transferring the tickets is always safe and secure.

**b. From what I understand, the NFL requires ticketing partners to integrate with one another. Can this process be applied to concert tickets as well?**

During the January 24, 2023, Judiciary Committee hearing, we discussed specific API technology that the NFL commissioned to facilitate resale of its tickets. We embraced that technology because it advanced our customer's business goals, we were compensated through what we got from the NFL deals, and the project was entirely consistent with our mission to eradicate fraud and protect the rights of the content owner (here the NFL) to manage the means by which tickets to its events are sold and resold among fans. We have discussed similar integrations with other sports leagues and their authorized secondary ticketing services.

We have no interest in supporting API technology that facilitates fraudulent and speculative ticketing practices or helps scalpers disrupt the intended connections between artist and fans. We would most likely condition any API on the reseller's willingness to abide by artist directions on how resale is conducted and provide reasonable compensation to Ticketmaster, which is the sports model. But insofar as no legitimate secondary ticketing service has made a commercial proposal for API access with regard to concerts, we cannot really say how we would respond.