

**Jerry Mickelson**  
**Chief Executive Officer and President**  
**Jam Productions, LLC, Chicago, IL**  
**Questions for the Record**  
**Submitted January 31, 2023**

### **QUESTIONS FROM 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.**

Ticketmaster wants to control the secondary market just like they do the primary. As an example, **Ticketmaster sells/re-sells tickets for Jam concerts even though Ticketmaster is not the primary ticketing provider.** See examples below from a show Jam is promoting at Riviera Theater in Chicago, Illinois. Screenshots are attached to this document.

- **Weyes Blood tickets have a face value of \$25 but are listed on Ticketmaster for \$654/ticket.**
- **Paolo Nutini tickets have a face value of \$40 for Mezzanine tickets and \$30 for GA Floor tickets, but are listed on Ticketmaster for over \$300 and \$197 respectively.**
- **Lizzy McAlpine tickets have a face value of \$34.50 for the Second Balcony, but those same tickets are listed on Ticketmaster for \$7,193 to \$9,371.**
- **M83 tickets have a face value of \$65 for Mezzanine tickets, but are listed on Ticketmaster anywhere from \$265 to \$425.**

To the detriment of consumers, Ticketmaster also wants to blur the lines between the primary and secondary market for their own benefit. Michael Rapino, Live Nation's CEO, has stated, **"I think I've said out loud many times that we welcome secondary and primary merging together. We think we are the beneficiary over time."**

a. **What kind of influence should artists have on transferability?**

I believe those taking the financial risk on an event should have authority over the transferability of tickets. That includes artists, who are responsible for touring and artistic expenses, along with promoters and venues who are at risk for show and event expenses.

The secondary ticketing market may provide limited convenience to fans who find themselves unable to attend the show they bought tickets to see, but industrial-

strength resellers often utilize illegal and deceptive practices to buy up tickets in bulk, preventing fans from obtaining tickets at face value and inflating ticket prices true fans must pay to attend a show. Limiting transferability and delayed delivery of tickets are practices artists and promoters utilize to cut down on scalping and increase the likelihood of fans accessing tickets at face value.

Secondary resale platforms empower resellers to do this while substantially marking up the price of these tickets and their associated ticket fees. It's worth noting that reseller platforms, including Ticketmaster, charge 10% of the ticket price as a fee to the seller, on top of an average 31% fee to the buyer. That is significantly higher than the primary market, where the average ticket fee is 27% and no seller fee. This was found in the 2018 GAO report. Ultimately, artists, fans, promoters, and venues lose money through these practices. Unfortunately, speculative ticketing and deceptive practices by resellers empowered by resale platforms exacerbate the financial impacts of transferability on fans and artists.

**b. Do you find that it is beneficial for an artist to influence capping ticket prices and/or resale amount?**

Yes, I fully support capping resale prices and amounts. Promoters and venues work with artists to determine ticket prices for their shows. It is the secondary ticketing market where artists have no influence, and fans, on average, pay more while artists lose out.

I would be in favor of limiting the resale of tickets to face-value prices. However, if that is not possible, then capping secondary ticket prices should be a priority so the fans are not gouged nor shut out from attending performances due to the tickets becoming unaffordable.

# TICKETMASTER SELLING TICKETS TO SHOWS WHEN IT IS NOT THE VENUE'S TICKETING PROVIDER

WEYES BLOOD – MARCH 11, 2023 – RIVIERA THEATRE (CHICAGO) - \$25 FACE VALUE

ticketmaster

Weyes Blood [More Info](#)

Sat - Mar 11 - 8:00 PM  
Riviera Theatre - IL, Chicago, IL

Important Event Info: Our Ticketmaster resale marketplace is not the primary ticket provider. Resale tickets may have restrictions.

2 Tickets

\$45

Lowest Price

Lowest Price	Section
Resale Ticket	Mobile Entry
Sec MEZZANINE, Row C	\$235.00 ea Mobile Entry
Sec GENERAL ADMISSION	\$654.00 ea Mobile Entry
Sec GENERAL ADMISSION	\$654.00 ea Mobile Entry
Sec GENERAL ADMISSION	\$654.00 ea Mobile Entry
Sec GENERAL ADMISSION	\$654.00 ea Mobile Entry
Sec GENERAL ADMISSION	\$654.00 ea Mobile Entry

PAOLO NUTINI – MARCH 13, 2023 – RIVIERA THEATRE (CHIICAGO) – \$40 MEZZANINE FACE VALUE & \$30 FACE VALUE FLOOR/GA

ticketmaster

Paolo Nutini [More Info](#)

Mon - Mar 13 - 8:00 PM  
Riviera Theatre - IL, Chicago, IL

Important Event Info: Our Ticketmaster resale marketplace is not the primary ticket provider. Resale tickets may have restrictions.

2 Tickets

\$24

Lowest Price

Lowest Price	Section
Resale Ticket	PDF
Sec FLOOR	\$197.00 ea PDF
Sec MEZZANINE, Row A	\$238.00 ea Mobile Entry
Sec MEZZANINE LEFT, Row B	\$288.00 ea Mobile Entry
Sec GENERAL ADMISSION	\$256.00 ea PDF
Sec MEZZANINE CENTER, Row A	\$306.00 ea Mobile Entry
Sec MEZZANINE CENTER, Row A	\$323.00 ea

**LIZZY MCALPINE – APRIL 21, 2023 – RIVIERA THEATRE (CHICAGO) – \$34.50 SECOND BALCONY FACE VALUE**

ticketmaster® Sign In

Lizzy McAlpine More info  
Fri - Apr 21 - 7:30 PM  
Riviera Theatre - IL, Chicago, IL

Important Event Info: Our Ticketmaster mobile marketplace is not the primary ticket provider. Please L. more

2 Tickets  
\$96 - \$413+

Lowest Price	Section
Resale Ticket	Mobile Entry
Sec FLOOR GENERAL ADMISSION	\$262.00 ea Resale Ticket Mobile Entry
Sec MEZZANINE, Row C	\$388.00 ea Resale Ticket Mobile Entry
Sec FIRST BALCONY, Row M	\$485.00 ea Resale Ticket Mobile Entry
Sec SECOND BALCONY, Row X	\$7,193.00 ea Resale Ticket Mobile Entry
Sec SECOND BALCONY, Row R	\$8,149.00 ea Resale Ticket Mobile Entry
Sec SECOND BALCONY, Row P	\$9,371.00 ea Resale Ticket Mobile Entry

**M83 – MAY 2, 2023 – RIVIERA THEATRE (CHICAGO) – \$65 MEZZANINE FACE VALUE**

ticketmaster® Sign In

M83 More info  
Tue - May 02 - 7:30 PM  
Riviera Theatre - IL, Chicago, IL

Important Event Info: Our Ticketmaster mobile marketplace is not the primary ticket provider. Please L. more

2 Tickets  
\$101 - \$341+

Lowest Price	Section
Resale Ticket	Mobile Entry
Sec FLOOR GENERAL ADMISSION	\$235.00 ea Resale Ticket Mobile Entry
Sec MEZZANINE LEFT, Row C	\$255.00 ea Resale Ticket Mobile Entry
Sec MEZZANINE CENTER, Row B	\$306.00 ea Resale Ticket Mobile Entry
Sec MEZZANINE CENTER, Row B	\$306.00 ea Resale Ticket Mobile Entry
Sec MEZZANINE CENTER, Row A	\$314.00 ea Resale Ticket Mobile Entry
Sec MEZZANINE CENTER, Row A	\$425.00 ea Resale Ticket Mobile Entry

**Questions for the Record**  
**Senator Chuck Grassley**  
**“That’s the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment Hearing”**  
**January 24, 2023**

**Question for Mr. Mickelson**

**1) Constituents have expressed concerns that Live Nation’s reach, accomplished partly by its vertical integration, significantly harms local communities and local economies. Could you explain how Live Nation’s dominance and influence in areas like record companies, artist merchandise, music apparel, and venues negatively affect local economies and smaller companies in those industries?**

As I stated in my 2009 and 2023 testimonies before the U.S. Senate Judiciary Committee, the Live Nation-Ticketmaster merger is vertical integration on steroids.

Live Nation operates or is affiliated with 226 of the best North American venues, including the overwhelming majority of amphitheaters and best outdoor festivals, important segments in our industry. They are the largest promoter in the world. They own Ticketmaster, which is the primary ticketing market leader across all live events in the U.S. They manage 500 of the biggest artists in music. They own an artist merchandise company. They leverage all their assets and the market power that comes along with them to steer the entire live entertainment industry in the direction they dictate – and that harms competition.

Live Nation's dominance in the industry makes it increasingly challenging for smaller companies, often locally-owned promoters and venues, to compete in the live entertainment industry. For instance, Live Nation's ticketing market dominance and their significant bargaining power when negotiating artist contracts can make it difficult for smaller companies to secure top talent and attract audiences, potentially leading to reduced revenue, profits, and potential closure. Similarly, Live Nation's exclusive agreements as a promoter with certain venues and festivals can limit opportunities for smaller players in the industry to start or survive.

My company, Jam, has not been immune to these impacts.

Since 1972, Jam has produced thousands of indoor arena-level concerts across the country, which in the past was the most profitable segment of our business, in other words, Jam’s bread and butter. As part of this submission, an analysis was performed of a cross-section of 50 top-tier performers that Jam worked with since 1974. Over that period, Jam produced 1,677 arena-level shows with these performers, but after 2010 (when the merger was allowed), Jam only produced 94 shows with them, 13 shows after 2015 and one after 2019.

Independent venues and promoters are pillars in our local communities, and we use our revenue to sustain and support our small businesses, allowing us to continue offering live entertainment in small towns and big cities across America. The revenues we generate stay within our local communities and support our local workforces. Fans coming to our events frequent nearby bars and restaurants, stores, car services, and hotels, giving a significant boost to local economies in every state in America. Unlike resale platforms, when we collect fees that support venue operations from a ticket sale, we pump it right back into the live entertainment ecosystem. We want to get low-priced tickets into the hands of true fans.

<b>ARENA PERFORMERS JAM USED TO PROMOTE</b>
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Acts	Year Beginning	Year Last Show	# Of Shows	After 2010	After 2015	After 2019
Aerosmith	1974	2001	74	0	0	0
Arcade Fire	2005	2011	5	1	0	0
Arctic Monkeys	2006	2013	6	1	0	0
Barry Manilow	1975	2013	75	9	0	0
Beck	1994	2018	23	2	2	0
Bill Maher	1996	2013	11	2	0	0
Billy Joel	1977	2007	27	0	0	0
Black Keys	2006	2012	10	4	0	0
Blink-182	2000	2001	4	0	0	0
Bob Seger	1976	2014	23	7	0	0
Bon Jovi	1987	2003	73	0	0	0
Coldplay	2001	2005	7	0	0	0
Dave Matthews	1994	2011	53	4	0	0
Def Leppard	1983	2005	112	0	0	0
Eagles	1974	2008	24	0	0	0
Elton John	1979	2009	30	0	0	0
Genesis	1976	1992	36	0	0	0
Green Day	1994	2017	31	4	0	0
Iron Maiden	1983	2000	22	0	0	0
James Taylor	1975	2006	36	0	0	0
Jane's Addiction	1988	2001	24	0	0	0
Janet Jackson	1990	2015	15	7	0	0
John Mayer	2002	2013	23	2	0	0
Journey	1978	2002	89	0	0	0
Judas Priest	1978	2018	34	0	0	0
Kid Rock	1999	2013	39	7	0	0
Kiss	1975	2009	76	0	0	0
Linkin Park	2001	2011	13	4	0	0
Lizzo	2016	2019	5	5	5	0
Madonna	1985	1990	4	0	0	0
Maroon 5	2003	2005	6	0	0	0
Matchbox Twenty	1997	2013	33	3	0	0
Metallica	1986	2009	92	0	0	0
Motley Crue	1983	2000	67	0	0	0
Muse	2000	2022	15	5	5	1
My Chemical Romance	2005	2011	2	1	0	0
Paul McCartney	1989	1993	5	0	0	0
Pearl Jam	1992	2014	35	2	0	0
Phish	1991	2011	54	3	0	0
Ray LaMontagne	2004	2014	14	8	0	0
Red Hot Chili Peppers	1985	2017	38	6	0	0
Rod Stewart	1979	2008	18	0	0	0
Roger Waters	1984	2000	10	0	0	0
Santana	1975	2014	62	1	0	0
Smashing Pumpkins	1991	2016	71	4	1	0
Stevie Nicks	1994	2001	6	0	0	0
Sting	1985	2004	32	0	0	0
Tim McGraw	1994	2006	16	0	0	0
U2	1981	1997	23	0	0	0
Van Halen	1978	2004	57	0	0	0
Weezer	2001	2011	17	2	0	0
<b>TOTAL SHOWS</b>			<b>1677</b>	<b>94</b>	<b>13</b>	<b>1</b>

**SENATOR TED CRUZ**

**U.S. Senate Committee on the Judiciary**

**Questions for the Record for Jerry Mickelson, CEO and President of Jam Productions**

**I. Directions**

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous witness declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.



## II. Questions

### 1. Does Live Nation Entertainment's market dominance threaten the live entertainment industry? Yes.

#### a. How so?

Live Nation threatens every aspect of live entertainment: promoters, managers, venues, ticketing, merchandising, artists, artist management, and fans.

The merger of Live Nation and Ticketmaster back in 2010 created a company with extraordinary market power and clout unlike any other. Ticketmaster's pre-merger dominance in ticketing and Live Nation's consolidation of promoters and venues was and still is vertical integration on steroids. This combined entity has used its monopoly power to harm consumers, suppress or eliminate competition in many segments of the music industry, including rival concert promoters, primary and secondary ticketing companies, artists management firms, venue management companies, and artist merchandise companies.

#### b. What are those threats?

The industry is negatively impacted due to Live Nation and Ticketmaster's market power influencing a continued consolidation of the live entertainment market, their unchecked and aggressive expansion into the secondary ticket resale market, venue management (including the largest amphitheater operator in the nation), artist management, their negotiating power over artists to lock them up under exclusive contracts, their required exclusivity agreements with venues - they - ticket, radius clauses built into festival offers (which limits the ability for artists to work with a different promoter in a geographical area), and limits on opportunities for emerging and diverse artists given their emphasis on well-known, established acts.

However, unfortunately, these are not actually threats but rather our reality. Those of us who compete against Live Nation have to deal with this vertical monopoly every day just to stay in business. The

consolidation of the concert industry by Live Nation has had devastating impacts on promoters, ticketing providers, artist managers, venues, merchandise companies, and others in the live music industry.

Live Nation has effectively eliminated the arena part of our business by utilizing nine methods:

1. Purchasing tours for their outdoor amphitheatres.
2. Leveraging their outdoor amphitheater shows to procure indoor shows.
3. Leveraging their summer festivals to procure indoor concerts.
4. Threatening financial penalties on a tour deal if artists wanted to work for Jam.
5. Paying a band 100% or more of the gross ticket sales.
6. Managing the largest acts in live entertainment.
7. Utilizing Ticketmaster's ticketing fees & inside deals with the arena.
8. Facilitating ticket sales directly to scalpers.
9. By merging the primary and secondary ticket markets, Ticketmaster makes money off of competing promoters' shows without their permission.

Ticketmaster lists tickets for all shows in their primary platform, including Jam shows, leading to customer confusion and their profit at our expense. Michael Rapino, Live Nation's CEO, has stated, "I think I've said out loud many times that we welcome secondary and primary merging together. We think we are the beneficiary over time."

**c. What steps can Congress take to address these threats?**

Congress should leverage its oversight authority to guide the U.S. Department of Justice to revise the Live Nation consent decree to restrict Live Nation's attempts to extend its industry dominance to the secondary ticketing resale market and artist management.

Congress should consider leveraging bipartisan legislative solutions they are considering to ensure consumers are protected in the technology platform market to protect fans in the live entertainment market. Bills that could be a template for managing Live Nation's market dominance include "The Platform Competition and Opportunity Act", which would ban major online players from buying competitive threats, and the "Ending Platform Monopolies Act", which would crack down on conflicts of interest between large tech platforms' business lines.

Congress needs to give control of our tickets to at-risk promoters and artists even as they transfer to the secondary market. This would allow us to stop the biggest monopoly in our industry from profiting from our hard work. Predatory and deceptive practices utilized by industrial-strength scalpers only serve to stop real fans from getting tickets and direct tickets onto the secondary market where, according to GAO, Ticketmaster is already the 2nd-biggest player.

Congress should pass an update to the BOTS Act that provides a legislative definition of "access control system" and "security measure," or the Federal Trade Commission (FTC) should consider a rulemaking to clarify the definition of those terms on a regulatory basis. Both Congress and the FTC should develop strong accountability and true enforcement measures for Ticketmaster's bot-prevention technology to be updated.

**2. In 2009, you testified before the Antitrust Subcommittee on the Live Nation/Ticketmaster merger, then pending before the Department of Justice.**

**a. In what way(s) did the 2010 DOJ consent agreement fail to address the market domination issues posed by Ticketmaster?**

The witnesses before the U.S. Senate Judiciary Committee 14 years ago predicted a consolidation of the live entertainment industry and devastating impacts for promoters, ticketing, and venues across the country if the merger between Live Nation and Ticketmaster.

Yet, the federal government approved the merger.

I am sad to say that our 2009 predictions have played out over the last decade exactly how they thought, and our company Jam has not been immune.

After the merger, Live Nation went after the arena business, and they succeeded in driving independent promoters out of that sector.

Since 1972, Jam has produced thousands of indoor arena-level concerts across the country, which, in the past, was the most profitable segment of our business; in other words, Jam's bread and butter. Attached to this submission is an analysis that was performed on a cross-section of 50 top-tier performers that Jam worked with since 1974. Over that period, Jam produced 1,677 arena-level shows with these performers, but after 2010 (when the merger was allowed), Jam only produced 94 concerts with them, 13 shows after 2015 and only 1 after 2019.

A snapshot of the superstar artists who no longer work with Jam includes Aerosmith, Billy Joel, Bon Jovi, Dave Matthews Band, Def Leppard, Eagles, Elton John, Genesis, John Mayer, Journey, Kiss, Kid Rock, Metallica, Motley Crue, Pearl Jam, Phish, Red Hot Chili Peppers, Santana, Van Halen, etc.

In addition, Jam has not had any opportunity to make offers on the new superstars such as Beyonce, Billie Eilish, Cardi B, Drake, Harry Styles, Justin Bieber, Kane Brown, Nicki Minaj, Post Malone, Rihanna, Shakira, The Weeknd, etc. Jam has been completely shut out.

Now, Live Nation is going after music venues and clubs of all sizes. The near complete domination of arenas because of the merger could soon happen to music venues - large and small - in every community in the country. This next phase of consolidation is already impacting promoters, venues, and, most importantly, fans. Everything from how much fans pay for shows to fan safety could be impacted.

This is primarily due to the U.S. Department of Justice's lack of true and effective enforcement and oversight of the Live Nation consent decree to ensure that the terms of Live Nation's consent decree are being followed. I mean no disrespect to the DOJ since it is not easy to

police a company whose intent is to suppress competition and harm the consumer for the benefit of their shareholders.

Even more alarming for the entire live entertainment industry is that the consent decree does not account for Live Nation's and Ticketmaster's expansion into the secondary resale ticketing market, including instances of bypassing fans and releasing tickets directly to scalpers so that they can charge increased fees and ticket prices on the secondary market. This market manipulation practice shuts out artists, promoters, and venues from a fair and free market. It also did not account for Live Nation's consolidation of artist managers under Artist Nation.

**3. How can the ability of consumer transferability be expanded while reducing the ability of scalpers to interfere with the ability of artists to set prices?**

A critical first step for Congress to ensure a free and fair transferable ticket market is putting in place basic consumer protections, including a national ban on deceptive URLs and the use of trademarks used by resellers to trick consumers into believing they are buying a ticket from a venue, festival, or artist and paying face value tickets and fees.

Congress must also protect consumers by prohibiting secondary ticketing exchanges from selling speculative tickets, capping the resale price of tickets at face value, and requiring resellers to display prominently that they are not the primary ticket marketplace and prominently show the original face value of the ticket.

Please note that non-transferability typically only occurs at the sole request of the artist so their fans can pay the ticket price which the artist set. It is rare that tickets are not allowed to be transferred.

**ARENA PERFORMERS JAM USED TO PROMOTE**

Acts	Year Beginning	Year Last Show	# Of Shows	After 2010	After 2015	After 2019
Aerosmith	1974	2001	74	0	0	0
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Barry Manilow	1975	2013	75	9	0	0
Beck	1994	2018	23	2	2	0
Bill Maher	1996	2013	11	2	0	0
Billy Joel	1977	2007	27	0	0	0
Black Keys	2006	2012	10	4	0	0
Blink-182	2000	2001	4	0	0	0
Bob Seger	1976	2014	23	7	0	0
Bon Jovi	1987	2003	73	0	0	0
Coldplay	2001	2005	7	0	0	0
Dave Matthews	1994	2011	53	4	0	0
Def Leppard	1983	2005	112	0	0	0
Eagles	1974	2008	24	0	0	0
Elton John	1979	2009	30	0	0	0
Genesis	1976	1992	36	0	0	0
Green Day	1994	2017	31	4	0	0
Iron Maiden	1983	2000	22	0	0	0
James Taylor	1975	2006	36	0	0	0
Jane's Addiction	1988	2001	24	0	0	0
Janet Jackson	1990	2015	15	7	0	0
John Mayer	2002	2013	23	2	0	0
Journey	1978	2002	89	0	0	0
Judas Priest	1978	2018	34	0	0	0
Kid Rock	1999	2013	39	7	0	0
Kiss	1975	2009	76	0	0	0
Linkin Park	2001	2011	13	4	0	0
Lizzo	2016	2019	5	5	5	0
Madonna	1985	1990	4	0	0	0
Maroon 5	2003	2005	6	0	0	0
Matchbox Twenty	1997	2013	33	3	0	0
Metallica	1986	2009	92	0	0	0
Motley Crue	1983	2000	67	0	0	0
Muse	2000	2022	15	5	5	1
My Chemical Romance	2005	2011	2	1	0	0
Paul McCartney	1989	1993	5	0	0	0
Pearl Jam	1992	2014	35	2	0	0
Phish	1991	2011	54	3	0	0
Ray LaMontagne	2004	2014	14	8	0	0
Red Hot Chili Peppers	1985	2017	38	6	0	0
Rod Stewart	1979	2008	18	0	0	0
Roger Waters	1984	2000	10	0	0	0
Santana	1975	2014	62	1	0	0
Smashing Pumpkins	1991	2016	71	4	1	0
Stevie Nicks	1994	2001	6	0	0	0
Sting	1985	2004	32	0	0	0
Tim McGraw	1994	2006	16	0	0	0
U2	1981	1997	23	0	0	0
Van Halen	1978	2004	57	0	0	0
Weezer	2001	2011	17	2	0	0
<b>TOTAL SHOWS</b>			<b>1677</b>	<b>94</b>	<b>13</b>	<b>1</b>

## **Questions from Senator Tillis** **for Jerry Mickelson**

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

I believe primary and secondary ticket resellers should utilize all-in pricing to clearly disclose the full final cost of a ticket and fees to the consumer, with the “face value” of the ticket that the artist is charging, and all fees separate and itemized.

Secondary ticket resellers should be required to disclose the original face value and fees of each ticket sold with all additional ticket price increases and secondary reseller and platform fees separate and itemized.

Secondary ticket resellers and platforms should be required to prominently display a permanent banner at the top of their website with a disclaimer that it is not the primary ticket marketplace. For each ticket sold, secondary ticket resellers should be required to link back to the primary site and include a message that primary tickets might still be available.

## **2. What legislative solutions do you recommend to benefit consumers and to improve operations in this industry?**

### **Protecting Fans**

A critical first step for Congress to ensure a free and fair transferable ticket market is putting in place basic consumer protections, including a national ban on deceptive URLs and the use of trademarks by resellers to trick consumers into believing they are buying a ticket from a venue, festival, or artist and paying face value prices and fees. These protections should have real financial punishments to disincentivize those who violate the rules.

Congress should also protect consumers by prohibiting secondary ticketing exchanges from selling speculative tickets, capping the resale price of tickets to face value, and requiring resellers to display prominently when they are not the primary ticket marketplace. Enforcement is a must.

I also believe those who take on the risk to put on a show, including artists, promoters and venues, must have oversight into how tickets are allowed to transfer on the secondary market. Currently Ticketmaster, the second largest reseller of tickets,



is advertising and profiting off Jam shows, sometimes making more on events than we are. We need the ability to protect our fans and help true fans access tickets in front of industrial-strength scalpers, who utilize illegal and deceptive practices to profit from our events while taking no risk and providing no value to communities.

### **Ensuring Live Entertainment Competition**

While not legislative, Congress should leverage its oversight authority to ensure the U.S. Department of Justice takes action to stop Live Nation's market dominance by enforcing and potentially expanding their consent decree in 2025 to restrict their actions on the secondary market and in artist management, two key areas that underpin their monopolistic behavior and were not contemplated by the initial consent decree of 2010.

*U.S. vs. Paramount* provides an important precedent for the federal government acting to stop the market dominance of multiple entertainment companies. The major movie studios had a near-monopoly on the movie business in the United States. Each studio had exclusive contracts with actors and directors; owned the distribution company; owned the theaters where their movies played; worked with each other to control how movies were shown in independent theaters; and, in

some cases, owned the companies that processed the film.

The U.S. Supreme Court ruling in the *Paramount* case led to the breakup of studio-theater monopolies and forced the studios to sell the movie theaters they controlled.

There are striking parallels between the *Paramount* case and the situation our industry faces.

At the very least, Live Nation's consent decree should be expanded. They should be forced to sell all of its venues (indoor & outdoor), divest themselves from Ticketmaster, stop managing artists, and cease block booking tours.

### **3. The process of transferring ownership of a ticket can be confusing and cumbersome for consumers. What can be done to streamline this process for consumers?**

Ticketing companies, promoters, and venues have been focusing on offering pathways to allow the exchange of tickets at face value. One solution of many that have emerged is Lyte, a platform enabling promoters and venues to facilitate the exchange of tickets among fans for face value and

minimal fees. The current resale system using major secondary ticketing platforms is largely rigged against true fans trying to resell a ticket. The proliferation of promoter- and venue-fueled technology solutions to limit price gouging by scalpers on the secondary ticket resale market will aid in this process, but so will action by Congress to protect consumers.

**4. Does the industry 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 ticketing platforms? If not, what more is needed?**

The Better Online Ticket Sales (BOTS) Act's central impediment to effectiveness is a lack of enforcement by the Federal Trade Commission (FTC). We also know that the largest ticket provider in the nation, Ticketmaster, has admitted that their bots-prevention technology is flawed following the Taylor Swift tour ticket sale debacle.

Congress should leverage its oversight authority to ensure that the FTC is enforcing the BOTS Act actors using ticket scalping bots and by holding large ticketing providers accountable for ineffective security protecting fans and artists from bots. Fines

also need to be meaningful, or the legislation is meaningless.

Congress should also consider creating grants that state attorneys general may apply for with the sole focus of providing resources for the enforcement of the BOTS Act and enforcing other consumer protections in the ticketing marketplace. Congress should pass an update to the BOTS Act that provides a legislative definition of “access control system” and “security measure.”

Finally, venues, promoters, and artists lack the ability to enforce the terms of the ticket after being sold on the primary market. Congress should adopt legislation that assists the licensor in enforcing the terms of those licenses by holding the secondary platforms accountable for resale violations.