

Congress of the United States
Washington, DC 20515

April 19, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Rebecca Kelly Slaughter
Acting Chair
Federal Trade Commission
600 Pennsylvania Ave NW
Washington, D.C. 20580

Dear Attorney General Garland and Acting Chairwoman Slaughter:

We write in support of strong antitrust enforcement by the Biden Administration, including the live event ticket sales marketplace. The evidence is overwhelming that the 2010 merger between the world's largest concert promoter, Live Nation, and the biggest ticket provider, Ticketmaster, has strangled competition in live entertainment ticketing and harmed consumers and must be revisited.

According to the Government Accountability Office's (GAO) 2018 report, Live Nation Entertainment (LNE), holds more than 80 percent of the venue ticket sales market. The Federal Trade Commission (FTC) held an important workshop in 2019 that examined the ticketing industry and heard concerns on LNE's anticompetitive behavior from actors throughout the industry. These important federal reviews, combined with troubling media reports and state sponsored reports, show that more can be done to investigate potentially unfair, deceptive, and anticompetitive practices in the ticket industry.

Since the merger, we have witnessed how pitfalls of the Department of Justice's (DOJ) consent decree has failed to protect competition and consumers. The DOJ itself has found that LNE has repeatedly violated the terms of the agreement over the course of the last 10 years by threatening venues and forcing the bundling of artists with ticketing services. These practices have enabled Ticketmaster to maintain its control of more than 80 percent of the primary ticketing sale market and to grow its position in the secondary market. We believe the prior administration's decision to extend the consent decree in 2019 to 2025 was insufficient to protect consumers. In its decision, DOJ did not demonstrate why extending the consent decree with only minor modifications would prevent LNE from continuing anticompetitive conduct. Rather than double-down on a failed approach, DOJ must now take steps needed to restore competition to the ticketing marketplace.

Not satisfied with its near monopoly of the primary sale of tickets, LNE has tightened its grasp on the secondary market, making it one of the largest ticket resellers in the United States. The company is now leveraging its position in the primary channel to drive out competition in the resale market and allowing for potentially unfair and deceptive practices.

One recent example we are concerned about is the introduction of a smart phone ticketing product, known as "SafeTix," which was purportedly created to fight fraud. However, LNE is using this program to ensure that tickets can only be resold or gifted within the Ticketmaster system. Ticketmaster has also used "SafeTix" to cancel resold tickets minutes before showtime. Media reports tell of patrons who purchased tickets on a competing resale platform being literally left out in the street while the show went on without them. If true, these reports may support claims of unfair and deceptive practices by LNE.

Throughout the coronavirus disease of 2019 (COVID-19) pandemic, LNE has rebranded its anticompetitive ways under the guise of protecting the public health. As reported in *Billboard Magazine*, “Ticket transfer technology used to restrict fans from reselling tickets to high demand shows will now be used to make ‘entry safer’ by requiring most person[s] entering a concert venue to register an account with Ticketmaster.”¹ While local governments should work with local venues to ensure common sense public health protections for fans, such as mask-wearing and social distancing, we cannot allow Ticketmaster to leverage the pandemic to choke off competition by eliminating ticket transfer.

Although, sadly, the pandemic continues to prevent a return to packed venues, hope is on the horizon that live events will begin to resume. Indeed, the governors of New York and New Jersey recently announced the easing of restrictions on live events in large venues. When live events return in earnest, it is imperative that consumers have access to a market that is transparent, fair, and competitive. We know that LNE is not sitting idle during this lull. Your agencies must guard against one company dictating the conditions of the return of live events and cannot permit LNE to mask its anticompetitive instincts under the guise of public health.

We strongly urge the DOJ and FTC to protect consumers future access to live events by immediately launching an investigation of LNE’s potentially unfair, deceptive, and anticompetitive practices.

Sincerely,



Bill Pascrell, Jr.
Member of Congress



Frank Pallone, Jr.
Chairman
House Committee on Energy and Commerce



Jerry Nadler
Chairman
House Committee on the Judiciary



Jan Schakowsky
Chairwoman
House Energy and Commerce Subcommittee
on Consumer Protection and Commerce



David N. Cicilline
Chairman
House Judiciary Subcommittee
on Antitrust, Commercial and
Administrative Law

¹ *Ticketmaster Tech Used to Fight Scalpers Will Now Be Deployed Against Covid19*, *Billboard* (Oct. 29, 2020), <https://www.billboard.com/articles/news/9474791/ticketmaster-tech-deployed-against-covid-19/>.