



Testimony of Brian Berry
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Before the U.S. Senate Committee on Commerce, Science, and Transportation's
Subcommittee on Consumer Protection
Re: Examining the Impact of Ticket Sales Practices and Bots on Concert Fans

January 28, 2026

Chairwoman Blackburn, Ranking Member Hickenlooper, and members of the Subcommittee: My name is Brian Berry, and I serve as Executive Director of the Ticket Policy Forum. Thank you for inviting me to testify on the vital role that secondary ticket markets play in the live event ecosystem.

The Ticket Policy Forum represents America's leading online ticket marketplaces: StubHub, SeatGeek, Vivid Seats, TickPick, Gametime, and Events Ticket Center. Importantly, these companies are not just resale platforms. Several of them seek to challenge the status quo in so-called primary ticketing and are working directly with teams, venues, and promoters to give fans better access, better technology and user experiences, and expanded choice for ticketing distribution partners. But real progress has been tough, mostly because the dominant player (who controls around 80% or more of major concert venue ticketing) keeps getting in the way and, as the Justice Department details, allegedly bullies venues into utilizing its services. Bottom line: competition in primary ticketing isn't just small, it remains fragile.

Our member marketplaces serve tens of millions of happy fans every year, providing safe, guaranteed ticket transactions, real competition in pricing and service, and trusted options when it comes to buying and selling tickets. We are proud that our online marketplaces brought resale off street corners where fraud and counterfeits were rampant, and into the world of transparent, protected, tax-paying e-commerce.

There is one thing nearly everyone agrees on: the entire live events ecosystem, including the ticketing segment, should work better for fans. Too often, for reasons that begin long before a ticket is put on sale, fans can feel confused, frustrated, or shut out entirely. But access to tickets is just the result of a long chain of events, relationships, and industry power plays that have been the subject of deep investigation. Therefore, we caution the Subcommittee to avoid defaulting to convenient scapegoats rather than digging deeper into the facts. Blaming ticket resale for all problems in ticketing misses the mark. Significant fan harm originates at the source in the currently rigged system designed and dominated by a single, vertically integrated monopoly that maintains a powerful grip over artist management, event promotion, venue operations, and ticketing.



Problems in ticketing have been repeatedly studied over the last two decades by lawmakers, industry, consumer advocates, and regulators. This process reached several important conclusions about how to improve the fan experience and, as a result:

- The FTC now requires all-in, upfront pricing so fans are not confused or misled about the price of tickets they are purchasing. We can all agree this took too long, but it's the right outcome.
- The Department of Justice has sued Live Nation/Ticketmaster repeatedly, agreed to several consent decrees to change how Live Nation/Ticketmaster operates, and soon a break-up monopoly trial will begin where the DOJ is joined by a bipartisan group of 40 state attorneys general. The Department of Justice should stay on the case until the job is done.
- Congress passed the BOTS Act, and the FTC is investigating and suing several alleged violators, including Ticketmaster. The FTC should keep enforcing the BOTS Act, and we agree that the Act could benefit from updates to improve enforcement.
- In part, thanks to this Committee's years of leadership, The House of Representatives passed the overwhelmingly bipartisan TICKET Act to address refund protection, deceptive websites, and speculative ticket offers. We urge the Committee to push the Senate to send the TICKET Act to the President's desk. That would be a monumentally important accomplishment.

Finishing this work - from the DOJ and FTC lawsuits to Congress and the TICKET Act - will usher in the most significant live event ticket reforms since tickets first went online.

I should note that enactment of the TICKET Act will require investment and change across the industry, including from our member companies. We accept that because it will improve the market in a way that benefits fans.

As aforementioned, our platforms support stronger fan protections that include more transparency, less deception, and more enforcement against fraud and abuse. What we do not support are policies that restrict legitimate resale, eliminate consumer choice, or further entrench monopolistic control under the false banner of reform.

Policymakers should resist framing ticketing reform as a zero-sum fight between "good" and "bad" players. The real divide in ticketing reform is not between primary and secondary markets. It's between systems that empower fans and systems that lock them into a single platform with no alternatives.



SECONDARY MARKETS CLEANED UP RESALE AND COUNTERFEITS

Twenty-five years ago, buying or selling resale tickets could be a gamble. If you couldn't make an event, you were often stuck with the ticket and there was no simple way to resell it. Ticketholders would scramble at the last minute to find a friend, coworker, or neighbor to take the seat. If that didn't work, the ticket (and your money) went to waste, and the event venue ended up with empty seats.

Meanwhile, fans trying to buy tickets outside of supposedly sold-out events had no safe options. You would have to give cash to a stranger on a street corner or meet someone whom you found in a sketchy online forum. No guarantees, no refunds, and no accountability. It was common to end up with counterfeit tickets.

Legitimate resale platforms changed that. Starting in 2000, StubHub introduced real consumer protections, including money-back guarantees, secure payment processing, and delivery verification, that simply didn't exist before. Other companies, including our members, also then entered the market to meet a significant consumer need and demand: safe and reliable access to tickets in a way that empowered fans. What was once a shadowy transaction is now one of the most transparent, secure, and flexible ways to attend a live event.

Online marketplaces don't just protect buyers, they empower ticket holders too. With just a few clicks, a season ticket holder who can't make one game out of 40 can set a price and instantly reach thousands of interested fans. What used to be a frustrating, local-only problem is now a global opportunity to recover costs and pass the experience on to someone else.

This has leveled the playing field. Someone in Colorado can now sell a ticket to a buyer from Tennessee visiting Red Rocks Amphitheater for the first time. A fan who missed the initial on-sale, be it a teacher or nurse who couldn't leave work and be on their computer screen at 10:00 am, now has other options to see their favorite artist. "Sold out" no longer means inaccessible.

And here's the most important part: the buyer determines the price. Sellers can list tickets at whatever amount they are willing to accept, but the transaction only happens when a fan decides what the ticket is actually worth to them. If you see an over-priced ticket listed on a marketplace, it is there for a reason - it hasn't sold, isn't worth it, and may likely never sell at or near the overvalued listed price.



THE SECONDARY RESALE MARKET SAVES FANS MILLIONS

The resale market not only improves access to events, it also frequently improves affordability. Contrary to popular myths, many resale tickets sell for below face value, often well below face value - especially as the event approaches. The headlines focus on the Taylor Swift or BTS tours - but there are countless affordable shows, sports games, theatre and comedy shows that don't make for a flashy story.

According to the [American Consumer Institute](#) Center for Citizen Research, in 2024, lower cost resale tickets were sold for 62% of events when compared to their original box office purchase price. The total value of savings was \$414 million across 10.4 million tickets sold for below cost. The average savings was \$40 per ticket and the average ticket price reduction over time (from the public on-sale to the final month before the event) was \$29. Generally speaking, on the secondary resale market, offered prices dip by about one-third from the month when the event goes on sale and the final month before the event.

From last-minute plans or bargain-seeking fans, resale platforms drive downward pricing pressure that benefits consumers, boosts attendance, and helps fill seats in venues around the country.

Thanks to TPF member companies, the result is a more flexible, competitive and transparent ticket industry where fans can browse tickets from their phones at their convenience, compare prices across platforms, and purchase with confidence. Thanks to these companies, fans are not held captive to one dominant company anymore. Instead, fans have alternatives and can comparison shop based on price and availability.

A BROKEN SYSTEM HELD HOSTAGE BY MONOPOLY POWER

Today's fans pay the price for a live event ticketing system that is broken. It is broken because one company, Live Nation/Ticketmaster, wields unprecedented market power over every aspect of the ticketing supply chain - from artist management to venue operations, from primary ticket sales to secondary ticket resale, and even down to the concessions sold at the show. This is not an allegation, it is an observable, measurable reality demonstrated by the DOJ's and 40 state attorneys general bringing a far-reaching antitrust lawsuit in 2024 against Live Nation/Ticketmaster. The case is



scheduled to go to trial five weeks from now, on March 2nd, in the United States District Court in the Southern District of New York.

According to [data](#) in the DOJ's complaint and according to the Department's lawyers at a recent hearing, Live Nation/Ticketmaster controls more than 265 concert venues in North America and manages more than 400 music artists. The data assert that Live Nation Entertainment also controls about 87% of the concert ticketing market through its Ticketmaster subsidiary and more than 65% of the concert promotion market through Live Nation. And don't forget: Ticketmaster is also among the largest ticket resale platforms, and is actively seeking to dominate resale just as it has primary ticketing.

Being such a dominant vertically integrated entity gives Live Nation/Ticketmaster free rein to abuse its monopoly power, and it does just that. Venues interested in using ticketing systems other than Ticketmaster report that Live Nation, in true predatory fashion, has threatened to withhold or limit how often and when Live Nation-promoted artists will appear in their buildings. Ticketmaster contracts are typically exclusive, multi-year, and structured to punish defection to rivals. In fact, DOJ attorneys argue that venues that left Ticketmaster in favor of another ticket seller ended up losing about five concerts per year promoted by Live Nation, which meant losing a combined \$1.5 million in revenue, or more than \$300,000 per event. These Live Nation/Ticketmaster exclusive agreements, and how they are leveraged, are the keystone of a vertically integrated monopoly that chokes off competition at every stage and level of the live event industry.

This vertical dominance means Live Nation/Ticketmaster is not merely a player - it is the rule maker, the gatekeeper, and the toll collector. No artist can tour at scale without navigating Live Nation/Ticketmaster's murky ecosystem. No venue can reasonably opt out without significant risk of losing shows. And fans can barely avoid them, if at all.

Ticketmaster leverages its technology to abuse fans and foreclose competition

The DOJ also alleges that Ticketmaster's use of its SafeTix anti-fraud and anti-counterfeit technology is used to shut out rivals. With SafeTix, tickets are confined within Ticketmaster's app with frequently changing QR codes for entry. According to the complaint, internal Live Nation/Ticketmaster documents show that one motivation behind SafeTix and making tickets non-transferable was to make it harder for ticket buyers and sellers to use alternative or rival secondary ticket marketplaces. This means that consumers, whether they are buying or selling, are locked into whatever fees Ticketmaster charges.



Ticketmaster's behavior with SafeTix is evidence that the technology serves the company for purposes beyond fraud prevention. The complaint cites internal remarks describing non-transferable digital tickets as a "game-changer" and a "product enhancement ... for market share" suggesting SafeTix was intended to expand Ticketmaster's control over both primary ticket sales and the resale market.

Restricting Ticketmaster's ability to abuse its technology to lock-in consumers and create uncertainty - such that consumers feel discouraged from buying and selling from its rivals - will hopefully be one of the outcomes of the DOJ lawsuit, if not by FTC action or an act of Congress. Ticketmaster should not be empowered to cancel or invalidate tickets that it previously sold but that were resold on a rival's platform. Consumers feel the greatest harm when Ticketmaster does this, leaving them fearful of buying from other ticketing platforms and being stranded outside of events despite holding legitimate tickets.

Since the Live Nation/Ticketmaster merger in 2010, the average price of concert tickets has risen by over 120% - a figure that significantly outpaces inflation. But it's not just about higher prices. It's about *how* those prices are set and *who* controls access.

Ticketmaster was found by enforcers to routinely and secretly hold back ticket inventory from the public on-sale. Often these hold backs are directed by the event promoter Live Nation. According to a report by the NY Attorney General's Office, it is common for half of a popular concert's tickets to secretly be held back. Overall, less than half (46%) are reserved for the general public. For some concerts, the percentage of tickets made available to the general public was as low as 12% of total tickets for the event, yet fans are left presuming nefarious bots scooped up all the tickets when really they remained secretly held-back to deceptively manufacture scarcity.

Consumers without exclusive access to pre-sales or special credit cards are abused during the public on-sale of tickets, where they may miss work and spend hours in an online waiting room only to be left with intentionally opaque options. When the true inventory of tickets or the fact that holdbacks are being used is not disclosed to fans, it is impossible for consumers to make more informed purchasing decisions.

This is not how healthy or pro-consumer markets function. It is not how innovation is fostered. And it is not how fans should be treated. As the DOJ puts it, "fans have been denied access to the benefits a competitive process would deliver, such as more choices in concerts and innovative fan-friendly ticketing options."



Live Nation/Ticketmaster typically deflects criticism by pointing to bots or the resale market. But let's be clear: Ticketmaster is deep into resale. As the pending antitrust lawsuit makes clear, its goal is to monopolize the resale segment of the industry as well. In fact, its resale platform brought in [\\$4.5 billion in gross transaction](#) volume in 2022, accounting for nearly one-third of the U.S. resale market.

This is not just a ticketing problem. This is a consumer protection crisis. Fans are being squeezed from every angle, and the only entity that benefits is the monopoly in the middle of almost every transaction.

COMMON GROUND: SUPPORTING THE TICKET ACT

Many of the problems experienced in the market are symptoms of the harmful, anticompetitive practices of the monopoly. However, that does not mean there are no ways to improve the fan experience in the resale industry as well. Deceptive practices, such as fake websites that masquerade as local venues and deceptive speculative ticketing, harm fans and undermine trust in the entire ticketing ecosystem.

Ticket Policy Forum proudly supports the bipartisan TICKET Act, which passed the House in 2025 with an extraordinary [409 to 15 vote](#) and passed the Senate Commerce Committee on a [voice vote](#). This legislation addresses many of the real problems fans face:

- Requires upfront, all-in pricing so fans know exactly what they'll pay. This codifies the new FTC pricing rules into federal law.
- Cracks down on deceptive websites that masquerade as official venue sites to trick consumers.
- Guarantees refunds for canceled shows and provides flexibility for postponed events fans can no longer attend.
- Directs the FTC to issue a report on bots and BOTS Act enforcement. To its credit, the FTC has announced enforcement action in the last year, though more is needed.
- Bans deceptive speculative ticket sales. Under the TICKET Act, sellers cannot offer tickets for sale unless they have constructive possession of those tickets. This eliminates a practice that has caused harm to consumers.
- Creates rules and guardrails for ticket procurement services to ensure such offerings are not co-mingled with actual tickets. This requires such procurement services to be a distinct and separate offering and that these services come with clear and conspicuous disclosure that what is offered is a service and not a ticket (until the ticket is delivered), refund protection and guarantees. These



requirements are designed to prevent a fan from being misled in any way. No ticket seller today offers ticket procurement services in the way the TICKET Act would require, but TPF marketplaces have agreed with TICKET Act authors that this approach will mitigate deception and confusion and that such rules should be required. If enacted, platforms will be required to re-engineer their user experience.

The TICKET Act represents a balanced approach that protects consumers while preserving competition. It enjoys overwhelming support in Congress, within the industry, and among premier consumer protection organizations. We urge the Senate to follow the House of Representatives and pass this legislation without delay.

PRICE CONTROLS ARE THE WRONG SOLUTION

Some argue resale prices should be capped or controlled by the government. Those ideas may sound appealing, but experience [shows](#) they don't work. Primary sellers increasingly use dynamic pricing for selling their tickets, so capping resale while the box office adjusts prices higher simply distorts the market. Price controls also create enforcement challenges and push transactions into unregulated corners of the internet, where fraud thrives and consumer protections vanish. This harms fans. In countries like Ireland and Australia, price controls on high demand events did not lead to affordable tickets. To the contrary, they hurt consumers by fueling shadow markets and scams. Notably, the Commonwealth of Massachusetts recently repealed its price cap law because it was not viewed as effective, pragmatic or enforceable.

Legitimate consumer demand cannot be legislatively stifled. When safe and reliable marketplaces are restricted, fans won't stop buying and reselling. They will just do it somewhere much less safe.

REFORM REQUIRES REAL COMPETITION AND A BETTER PATH FORWARD

The Ticket Policy Forum supports strong, meaningful protections for fans. We stand for transparency, less deception, and rigorous enforcement against fraud and abuse. We support ongoing federal efforts at the DOJ, Federal Trade Commission (FTC), and in Congress to improve the ticketing ecosystem and the fan experience. This includes our support for enforcement of the federal BOTS Act, the bipartisan TICKET Act and the FTC's new all-in, upfront pricing rules.



What we do not support are policies using “consumer protection” as a trojan horse to restrict legitimate resale, eliminate consumer choice, or further entrench monopolistic control under the false banner of reform.

There is a better path forward, one that protects fans without breaking what works. It starts with recognizing basic consumer rights: the right to give away or sell a purchased ticket without fear of retaliation; the right to enter with a valid ticket regardless of whether it was purchased from the box office or repurchased from a ticketing marketplace; and the right to meaningful transparency about ticket allocation practices and whether dynamic pricing is being used. Moreover, deceptive websites that pretend to be the venue or team, or undisclosed speculative ticket offers, harm everyone and should be banned.

CONCLUSION

We are committed to working with this Subcommittee and with Congress and with the Administration in its efforts to improve the live events system and fan experience.

Thank you.