

FTC Workshop Examining Online Event Ticket Sales

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Congressman Bill Pascrell, Jr.

I welcome the opportunity to provide comments on the Federal Trade Commission's (FTC) planned workshop examining online event ticket sales and related consumer protection issues.

I have been advocating for stronger consumer protections in the event ticket sales industry since 2009, following a botched sale of tickets to a Bruce Springsteen concert at the IZOD Center in New Jersey. Back then, after hearing from constituents, I introduced legislation to bring transparency and accountability to the online ticket sales marketplace with the *Better Oversight of Secondary Sales and Accountability in Concert Ticketing Act* (BOSS ACT). This legislation aimed to bring transparency to hidden fees and holdbacks, fraudulent ticket sales, and more.

In 2016, one provision of the BOSS ACT was passed into law as the Better Online Ticket Sales (BOTS) Act, legislation to combat ticket-buying software known as bots used to route consumers and force higher prices on secondary ticket sales. Subsequently, I joined with Chairman Fred Upton and Ranking Member Frank Pallone of the Energy and Commerce Committee in requesting a study from the U.S. Government Accountability Office (GAO) on the online event ticket sales marketplace. I was concerned about the anticompetitive practices of major ticket sellers and the corresponding negative impacts on consumers.

Earlier this year, the GAO published their findings, confirming many of my suspicions about the harmful impact of hidden fees and anticompetitive behavior in ticket sales. In July, I asked the FTC to act on the findings of the GAO, particularly as it relates to hidden fees, speculative ticket sales, and misleading and deceptive practices of resellers.

Among the findings of the GAO were that ticket sellers add service fees and other charges averaging 30 percent of ticket value.¹ These fees are often hidden until late in the transaction, misleading consumers about the true cost and making it nearly impossible to comparison shop. The FTC should examine the prevalence of fees tacked on to ticket sales at both the primary and secondary sales of a ticket. The FTC should analyze whether these fees provide any additional value to the consumer for their cost, or if they are simply a profit-driven measure by monopolistic sellers. The FTC should consider policy

¹ Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues* (April 2018) (GAO-18-347).

recommendations to remedy this problem, such as requiring sellers to disclose all fees up front at onsale (similar to the requirement of airlines to disclose fees up front).

Another problem the report identified was the sale of speculative tickets. In some cases, consumers purchased tickets through secondary sellers, only to have their seats changed or tickets not delivered at all. The FTC should investigate whether any ticket sellers are engaging in the deceptive sale of speculative tickets.

In addition, the FTC should examine the impact on consumers of ticket holdbacks and special agreements with secondary ticket sellers. Today, less than half of tickets for a live event ever go on sale to the public, and that small supply is often bought up by ticket-buying bot software, despite changes to the law in the BOTS Act. The FTC should examine the availability of tickets to the public at onsale, and the prevalence of software like bots, including compliance and enforcement, if any, with the recent BOTS Act.

The GAO also exposed the use of white-label sites by third-party sellers. Most sites incorporate the event venue name into the site's domain name, and many use images of the venue throughout the site's webpages.² Moreover, the markups and added fees on these sites are substantially higher than on other ticket resale sites.³ Deception by white-label sites continues despite past FTC enforcement efforts.⁴ The FTC should conduct a review of white-label sites and pursue enforcement actions to protect consumers.

The FTC should also act against anti-competitive conduct in the primary and secondary ticket sale markets. Online ticketing services represent an estimated \$9 billion market. In 2010, I strongly opposed the merger of Ticketmaster and Live Nation, predicting it would become a behemoth capable of anti-consumer, monopolistic behavior. My predictions, unfortunately, have come true. Ticketmaster is, by far, the largest ticketing company in the United States. And the company has been accused of using their dominant market position to bully venues and artists into using Ticketmaster; colluding with scalpers to buy up all tickets to crowd out consumers from the primary ticket sales; and charging exorbitant, nontransparent fees on both the initial and secondary sales of the same ticket.

When the Department of Justice cleared the Ticketmaster/Live Nation merger in 2010, it was sufficiently concerned about potential competitive abuses that it imposed a number of restrictions and barred the parties from retaliation against venues that used competing

² See Note 1.

³ *Id.*

⁴ Federal Trade Commission, *TicketNetwork and Marketing Partners Ryadd and Secure Box Office Settle Charges of Deceptive Marketing Resale Tickets* (Jul. 24, 2014) (press release).

ticket services.⁵ Despite these restrictions, Ticketmaster and Live Nation may be wielding the power they enjoy from the vertical integration of venues, artists, promoters, and ticket services to cripple competitors.⁶ I urge the Commission investigate these allegations to ensure that they do not violate antitrust laws. I urge the FTC to examine the role that the Ticketmaster – Live Nation merger has played in the ticket sales industry; whether their monopolistic behavior violates the consent decree the Department of Justice issued as a condition of their merger; and what harm is being done to consumers as a result.

I would encourage the Commission to include input from consumer advocates; journalists who have investigated and exposed Ticketmaster's anticompetitive and colluding behavior; industry stakeholders that include venues and artists who use alternative ticketing services to Ticketmaster, including those who have been innovative in preventing scalping and fraudulent ticket sales; and alternative ticket brokers themselves to examine the level of competition and barriers to entry in their field.

Lastly, I encourage the Commission to issue recommendations for policy change, including what, if anything, the FTC can do within its capacity to shore up consumer protections and increased competition in the ticket sales marketplace.

Thank you for your consideration and attention to this request.

Sincerely,

Bill Pascrell, Jr.
Member of Congress

⁵ *United States v. Ticketmaster Entertainment, Inc.*, No. 1:10-cv-00139 (D.D.C. July 30, 2010).

⁶ *See* Note 4.