



July 7, 2025

Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

U.S. Department of Justice  
Antitrust Division  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

**The National Independent Venue Association (NIVA)**

Re: Public Comment on Docket No. ATR-2025-0002

**“Combating Unfair Practices in the Live Entertainment Market”  
Submitted to the Federal Trade Commission and Department of Justice**

Dear Chair Ferguson, Members of the Federal Trade Commission, and Assistant Attorney General Slater:

The two greatest threats to the future of the independent live sector are anti-competitive conduct by the largest promoter in live entertainment and the widespread harm caused by the unchecked secondary ticketing market. Together, these forces have distorted the live entertainment economy, undermined consumer trust, and jeopardized the viability of independent venues, promoters, and festivals across the country.

The National Independent Venue Association (NIVA) represents thousands of independent venues, promoters, and festivals in all 50 states and the District of Columbia. Our members are local businesses and cultural institutions that create jobs, generate economic activity, and preserve community identity. These stages are where artists begin their careers, where fans connect with music and culture, and where live entertainment remains accessible to the public. But they cannot survive in an environment where anti-competitive behavior and unchecked resale markets erode trust, inflate prices, and siphon essential revenue away from those who make live events possible.

NIVA has worked across the country to expose and oppose deceptive and anti-competitive practices in ticketing and concert promotion. We have partnered with state lawmakers to ban speculative ticket sales, address fake resale websites, and prohibit resale before the public onsale. We have challenged the influence of industry-funded groups that claim to represent fans but advance policies that benefit resale platforms and professional brokers. In 2024, we worked with Senator Blumenthal to submit a formal letter to the Federal Trade Commission (FTC), collecting evidence from independent stages in Connecticut that reflects the same predatory practices reported by our thousands of members in all 50 states.

**Addressing The Anti-Competitive Practices of Live Nation**



Independent music venues, promoters, and festivals are being systematically squeezed by Live Nation's vertically integrated "flywheel" model—spanning ticketing, promotion, venue ownership, artist management, merchandise, advertising, and sponsorship. Live Nation operates through more than 425 subsidiaries, reaching into industries from fashion and hotels to canned water, all reinforcing its ability to dominate every layer of the live music ecosystem. It spends millions annually on lobbying efforts to secure favorable public resources and carve out preferred access to venues and event space under the guise of delivering "more shows." Yet these promises often lead to the cannibalization of independent venues and promoters, with Live Nation-controlled rooms sitting empty rather than booking local talent or working with unaffiliated operators. The result is economic harm to surrounding small businesses and a consolidation of cultural power in the hands of a single entity.

The current situation is the direct result of a policy failure in 2010, when the U.S. Department of Justice (DOJ) allowed the merger of Live Nation and Ticketmaster to proceed. At the time, consumer and industry advocates raised serious concerns about the anti-competitive implications of vertically integrating the nation's largest ticketing company with the dominant concert promoter and venue operator. Instead of requiring structural separation, the Department of Justice approved the merger with a consent decree that relied on behavioral promises and weak oversight. The result was predictable: Live Nation violated the terms of the decree repeatedly, as confirmed by DOJ enforcement actions in 2019 and again by the current lawsuit filed by the DOJ and 40 state attorneys general. This merger should never have been approved. The FTC and DOJ now have an opportunity—and an obligation—to correct this error and deliver structural change that should have been required fifteen years ago.

Live Nation employs a suite of anti-competitive tactics that severely limit access to the live music market for independent operators. It manages hundreds of major artists, giving its promotions division the right of first refusal on those artists' live shows. It leverages all-or-nothing touring deals that route artists exclusively through Live Nation venues and ticketing systems, while threatening artists with financial penalties if they choose to work with independent promoters. It enforces radius clauses that are waived for other Live Nation venues but not for independent ones. Local artists have been barred from performing at non-Live Nation festivals because they agreed to play a Live Nation-branded event. Even when Live Nation controls a venue, it has refused to rent the space to artists or promoters it does not control, leaving rooms dark rather than enabling competition. Independent venues report being told they will lose performers whose tours are managed by Live Nation if they don't switch to Ticketmaster. And in some cases, Live Nation has demanded to be added as a "co-promoter" on shows it had no involvement in booking - claiming up to half of the profits under threat that refusal will jeopardize future bookings.

The National Independent Venue Association 2025 State of Live report paints a stark picture of what independent venues face. Despite hosting more than 153,000 events, serving 183.7



million fans, and driving \$10.6 billion in off-site tourism spending and \$19.3 billion in tax revenue, 64% of independent venues were unprofitable in 2024, and nearly one-quarter struggled just to stay open. These venues operate on thin margins, without access to national sponsorships, bundled advertising, or economies of scale. Many are being priced out of national touring, denied access to artists routed through exclusive deals, and forced to use ticketing platforms that undercut their operations. Their only competitive advantage is their value to the communities they serve—and that is being eroded by a system rigged in favor of a global conglomerate. These businesses are infrastructure. Their collapse would not just be a cultural loss; it would be a failure of public policy.

The DOJ's lawsuit against Live Nation, joined by 40 state attorneys general, rightly characterizes the company's conduct as monopolistic, exclusionary, and deeply harmful to consumers, artists, and independent operators. Live Nation now controls over 80% of the primary ticketing market at major venues and approximately 60% of concert promotions. It has acquired regional promoters, locked in exclusive venue deals, and partnered with competitors to avoid bidding wars and preserve market dominance. It routinely subsidizes concerts at a loss to reinforce its control over venues and routing. These strategies are not incidental—they are central to Live Nation's business model and have enabled the company to scale its monopoly in ways that no consent decree or behavioral promise can unwind.

#### **Recommended Remedies:**

- **Structural Divestiture into Four Separate Companies.** The U.S. Department of Justice should seek to require the separation of Live Nation into four distinct entities: ticketing, promotion, advertising/sponsorship, and artist management. The conflicts of interest inherent in one company operating across all of these roles are too great and too systemic to be addressed through regulatory conditions alone. True remedy requires structural divestment to dismantle the flywheel and ensure no single entity controls the entire live event pipeline.
- **Venue & Promoter Rebuilding Fund.** We propose a long-term fund of \$300–\$500 million annually for at least 15 years, financed through settlement contributions, disgorgement, or performance-based revenue shares to be paid by the post-break up promotions and ticketing entities formerly known as Live Nation. This fund would support capital investment, marketing support, and operational sustainability for small and mid-sized independent venues, festivals, and promoters. Like the Tobacco Master Settlement Agreement, the fund should be structured to correct historical harms caused by market concentration.
  - **Resale Reinvestment.** A requirement for 50% of profits on secondary ticket sales above 120% of face value to be contributed to the Rebuilding Fund would ensure that speculative profits are not simply captured by multi-billion dollar



platforms or scalpers, but are redistributed into the independent sector, turning extraction into reinvestment.

- **Regulatory Oversight Board.** The FTC and DOJ should create a multi-stakeholder oversight board with enforcement authority to monitor venue access, market share concentration, and unfair practices by entities formerly known as Live Nation post-breakup. The board should have the power to impose disgorgement of anti-competitive profits, resolve complaints, and recommend additional remedies if anti-competitive behavior continues. This model draws from successful precedents in environmental enforcement and financial regulation.

These remedies - structural, financial, and regulatory - are not only legally and economically sound but historically justified. The 2010 merger of Live Nation and Ticketmaster was a mistake. The agencies now have the opportunity to reverse that mistake and realign the live entertainment market with the public interest. Without strong intervention, independent venues will continue to disappear, not because they lack audiences or cultural value, but because the rules of the market no longer include them.

The American live music landscape is at a crossroads. The only way forward is with real structural change, sustained oversight, and a clear rebalancing of power. Settlements and consent decrees will not rescue fans, artists, and stages disadvantaged by a monopoly. Only forced, structural separation and divestment will.

### **Addressing the Unregulated Resale Market**

Independent venues, promoters, and festivals assume all the risk of producing live entertainment. They pay the artist, rent the space, staff the event, cover security and cleaning, pay performing rights organizations, secure insurance policies, and promote the performance. And their role extends beyond logistics. These operators create real opportunities for emerging talent, offer platforms to artists building their careers, and sustain the creative pipeline that fuels the entire live entertainment ecosystem. According to the [2025 State of Live study](#), independent stages spent 31 percent of all operating expenses directly on artists in 2024. Ticketing is not just a transaction. It is the foundation of an independent stages' business model and a direct investment in the artists they present. Every dollar supports the local workforce, keeps the doors open, and helps ensure the next generation of performers has a stage.

Unlike primary venues and promoters, secondary resellers have no investment in the live entertainment ecosystem. They do not support artists, operate venues, or contribute to the communities where shows take place. Yet through increasingly sophisticated technology, they are able to capture ticket inventory, inflate prices, and divert revenue away from the people and businesses doing the work. The money generated from these transactions does not stay in local



economies. It leaves small towns, bypasses independent businesses, and undercuts the cultural infrastructure that makes live performance possible. Without federal regulation, this system will continue to reward speculation over participation and turn live entertainment into a luxury only a few can afford. Reform is urgently needed to restore fairness, protect consumers, and ensure that local economies, not predatory middlemen, benefit from the value these events create.

### **Recommended Remedies:**

**BOTS Act Enforcement.** The directives outlined in Executive Order 14254 create a long-overdue opportunity to correct a market that has, for too long, operated without meaningful accountability. The Better Online Ticket Sales Act, passed in 2016 to prevent the use of bots to hoard ticket inventory, has only been enforced *once* in the nine years since its passage, despite well-documented violations. Deceptive resale listings, obscure secondary fees, and impersonation of official sellers remain common. Meanwhile, dominant players use exclusive tour contracts, venue control, and vertical integration to entrench their power and limit competition at every step of the ticketing process.

The independent live sector cannot recover, let alone compete, without a fair marketplace, clear rules, and consistent enforcement. We urge the Federal Trade Commission and the Department of Justice to use this opportunity to deliver meaningful reform that protects fans, restores trust, and ensures that small businesses and cultural institutions are not forced out by business models built on deception and control.

To ensure meaningful progress beyond enforcement of existing laws, the FTC's forthcoming report and recommendations must address the most exploitative and unregulated aspects of the ticketing system. For too long, resale platforms and professional brokers have operated without oversight, using loopholes, deceptive practices, and technology to manipulate the marketplace. As a result, consumers face inflated prices, fake listings, and uncertainty about the validity of their tickets. The lack of national standards has created an environment where fraudulent activity thrives and enforcement is inconsistent or nonexistent.

**Ban Speculative Tickets With Zero Loopholes.** Speculative ticket listings must be banned outright. It is unacceptable for resale platforms to allow brokers to sell tickets that do not yet exist, are not in the seller's possession, or may never be delivered. This includes "concierge" or procurement services, which will be addressed in detail later in this comment. These listings mislead fans, create artificial scarcity, and regularly result in financial loss and emotional harm. In some cases, consumers discover their tickets are invalid only after traveling long distances and spending hundreds or thousands of dollars on nonrefundable hotels and transportation. This practice is both deceptive and economically damaging, and no regulatory framework can be considered complete without prohibiting it.



**Price Cap on Resale Market.** The FTC should recommend a nationwide cap on ticket resale prices to prevent price gouging and preserve fan access. Independent artists and venues should have the right to set limits on how their tickets are resold, including the ability to cap resale prices at no more than ten percent above face value. This approach balances fan flexibility with artist and venue autonomy and has already been enacted in states such as Maine, Michigan, and Kentucky. Resale markets must be subject to basic consumer safeguards, and no artist should have to compete with brokers reselling their tickets for triple the intended price.

**Ban Deceptive URLs and Spoof Websites.** The FTC must act swiftly to ban the use of deceptive resale websites and advertising tactics that impersonate official box offices, venues, or artists. Predatory platforms routinely purchase top placement in search results and use stolen imagery to trick fans into believing they are buying directly from the source. This manipulative behavior drains fans' wallets, erodes trust, and damages the reputations of artists and venues who are blamed for inflated prices or invalid tickets they never sold. These sites must be shut down, and any entity facilitating this behavior must be held accountable.

**Guaranteed Refunds.** Consumers must be guaranteed full refunds for fake, invalid, or misrepresented tickets and for events that were rescheduled or cancelled. If a fan cannot enter the venue because they were marketed and sold a fraudulent ticket on the secondary market, they deserve their money back. Platforms that fail to deliver a valid ticket, sell unusable tickets, distribute duplicates, or hoard fan refunds must be required to offer immediate and complete reimbursement. Refunds must reflect the full financial harm - including the cost of travel, ground transportation, and housing - caused by false transactions, and any platform that enables the sale of fake tickets must be held liable.

**Stop Predatory Resale Prior to Public Onsale.** The FTC must prohibit the resale of tickets before the public onsale. Scalpers frequently invade artist presales, fan club distributions, and verified fan offers to buy up inventory meant for loyal audiences and inflate prices before the general public even has access. This practice deceives fans, distorts availability, and strips artists and venues of the ability to honor fan-first policies. Resale platforms that allow these listings are not expanding access—they are erasing it.

**Preserve Artist Tools to Stop Price Gouging.** The FTC must also ensure that artists and stages do not live under forced transferability that leads to unlimited price gouging through a one-size-fits-all ticket transferability policy. These proposed mandates in bills like the BOSS and SWIFT Act strip artists and venues of control over their own events, prevent them from enforcing price caps or verifying legitimate transfers, stifle innovation, and open the door to unchecked speculation and scalping. Resale flexibility should remain an artist choice, never a requirement. Primary sellers must retain the right to limit transferability when it serves a





legitimate public interest, such as preserving face-value access, supporting charitable ticketing, or protecting vulnerable fans from fraud.

**Expose Resale-Funded “Consumer Groups” that Obstruct Reform.** Any thorough review of anti-fan ticketing practices must include awareness of [the organizations that claim to represent consumer interests](#) while advancing the financial agenda of dominant resale platforms. Groups such as the Sports Fans Coalition and the National Consumers League publicly present themselves as advocates for fans, but are privately funded by StubHub, Vivid Seats, and other companies that profit from market manipulation and consumer exploitation. These groups have repeatedly opposed federal and state reform that would bring transparency and accountability to the industry. They have lobbied against bans on speculative ticket listings, resale price caps, and efforts to prohibit fraudulent websites. They have supported legislative provisions that protect “concierge” services, mandated transferability, and resale before the public onsale. Their agenda is not aligned with fans but with preserving profit margins for the secondary market.

The Federal Trade Commission and the Department of Justice must be clear-eyed in assessing the role these organizations play in shaping legislation and public narrative. These groups produce no actual consumers when testifying. They rely on misleading data and selective statistics to influence policy in ways that benefit the platforms that fund them. When pressed on both their claims and their financial ties, their representatives have admitted to partial data sets and direct funding from resale platforms. The agencies tasked with protecting consumers should be skeptical of anyone claiming to speak for fans while standing on a business model that profits from confusion, deception, and inflated prices. Any meaningful reform must center the voices of those impacted, not the front-groups paid to preserve the status quo.

**Investigation of Resale Market.** Finally, we urge the FTC to open a broad investigation into coordinated price gouging, deceptive marketing, and speculative listings across the secondary market. This investigation should include platforms, which have profited from the widespread distribution of fake and speculative tickets and have adopted business practices like the “Seat Saver” program that would likely not be tolerated in any other regulated consumer market.

The scope and scale of abuse in the live event ticketing ecosystem cannot be addressed through policy alone. It requires real enforcement power. As stated, the Better Online Ticket Sales Act has been federal law for nearly a decade but has only been enforced once. That level of inaction does not reflect a lack of violations, but a lack of resources. Federal agencies cannot be expected to regulate a fast-moving and deeply entrenched system without sustained investment in personnel, investigative tools, and cross-agency collaboration.

**Resources for FTC Enforcement.** Enforcement cannot be symbolic. It must be proactive, continuous, and capable of outpacing those who profit from deception. Until federal agencies are empowered with the resources to act at scale, the live entertainment marketplace will



remain tilted against fans, artists, and independent businesses. We urge Congress and the Administration to allocate increased funding and enforcement resources to the Federal Trade Commission and the Department of Justice so they can effectively investigate and prosecute large-scale ticketing abuses. Sophisticated brokers and platforms have built entire business models around exploiting regulatory gaps and technological loopholes.

To hold them accountable, enforcement agencies must be equipped to trace bulk bot purchases, detect systemic fraud, and respond quickly to widespread consumer harm. State attorneys general also play a critical role in this enforcement landscape, but their efforts have been undermined by legal ambiguities and jurisdictional limitations. Federal support should include active coordination with state enforcers and a clear mandate to share investigative findings, pool resources, and pursue coordinated action across jurisdictions.

**Stop Abusive Credit Card Chargebacks on Tickets by Predatory Resellers.** The impact of deceptive ticketing practices is no longer confined to the platforms that enable them. These tactics are seeping into other industries and systems, particularly the financial infrastructure and credit card companies that underpin ticket transactions. One of the most urgent examples is the growing wave of abusive and fraudulent credit card chargebacks. This issue is escalating nationwide and now requires regulatory action and interagency enforcement. It is a direct threat to the economic sustainability of independent venues, promoters, and festivals.

In many cases, brokers or resellers purchase tickets intending to flip them. When they fail to resell or choose not to use them, they file chargebacks under vague codes such as fraud or non-receipt. In other cases, individuals attend the event, scan in, make purchases, and later receive a full refund simply by disputing the charge. These chargebacks are routinely granted, even when venues submit clear evidence that the service was delivered. The financial losses are significant. Individual venues have reported tens of thousands of dollars in losses per year, with some facing over \$100,000 in chargebacks from just a handful of events.

This is a systemic failure that bad actors exploit with impunity. What may have once been dismissed as an operational issue or loophole has now become so widespread and damaging that it can no longer be addressed through private systems alone. We urge the FTC and DOJ to work with the Department of the Treasury and the Office of the Comptroller of the Currency to create enforceable standards for ticketing-related chargebacks. Venues must have the right to respond in real time, and chargebacks must be denied when a ticket is honored. Without intervention, this practice will continue to drain critical revenue from the live entertainment sector.

**Consumer Education on Fraudulent and Abusive Ticketing.** Consumer education is also essential. Many fans are unaware of which platforms are legitimate, how to identify spoof websites, or what their rights are when a ticket turns out to be fake. Without meaningful





outreach and consumer guidance, fans will continue to fall victim to fraudulent and speculative ticket listings that appear credible but offer no protection. The FTC should invest in a national public awareness campaign to educate consumers on how to safely purchase tickets, how to report violations, and what protections they are entitled to under federal law.

**The Fake Ticket Loophole in the TICKET Act.** While the Executive Order signals a renewed commitment to consumer protection and competition in the live entertainment market, proposed federal legislation such as the TICKET Act would take the industry in the opposite direction of priorities outlined by the Administration, the FTC, and the Department of Justice.

The speculative ticketing provisions within the TICKET Act, as currently written, undermine the very objectives of Executive Order 14254. While the Executive Order calls for greater enforcement of existing laws, enhanced consumer protections, and a crackdown on deceptive and anti-competitive practices, the TICKET Act would permit speculative ticket sales under a thin layer of fine-print disclosure, limit artist and venue control over resale terms, and shield professional brokers from accountability.

It explicitly allows for the sale of tickets that the seller does not own by framing them as “concierge” or “procurement” services. These listings are not a consumer convenience. They are speculative tickets by another name and should be more aptly named, “buy now, pray later” services. Brokers list exact seats they do not possess, take consumers’ money, and if they fail to deliver tickets, they often cancel the transaction just hours before the show with no consequence. These “concierge services” are marketed as premium fan offerings - often at least 2-3 times the original price of the ticket - but have only become a strategic tool to avoid growing state-level reforms aimed at cracking down on speculation. They exist to circumvent regulation, not to serve consumers. “Concierge” listings offer nothing to fans who missed the ticket onsale, nothing to fans who need flexibility, and nothing to the integrity of the marketplace.

We urge the Federal Trade Commission to make its position clear. The speculative ticket provisions within the TICKET Act do not reflect the values of transparency, fairness, or accountability that the Executive Order seeks to restore. It offers no new protections to consumers. It legitimizes the very abuses that prompted this inquiry. And it denies primary sellers any meaningful authority to ensure that their tickets are used in the way they were intended.

## **Conclusion:**

The live entertainment economy will not stabilize without a federal framework that addresses the scale and complexity of abuse across the system. Consumer protections must be universal. Refunds must be guaranteed when tickets are fraudulent, invalid, or misrepresented. Fake and speculative ticket listings must be prohibited outright. And resale practices must reflect the



original intent of artists and venues, not the financial incentives of brokers or marketplaces. Congress must also enact policies that guarantee artists have recourse through ticket terms and conditions against extractive resellers that harm the ecosystem.

The live entertainment ecosystem cannot be fair until it is fundamentally restructured. The FTC, DOJ, and Treasury have an opportunity not only to protect consumers but to restore balance in an industry that for too long has concentrated power without accountability.

This is a defining moment. The live entertainment industry is not broken by accident. It has been bent, over time, by unchecked consolidation, deceptive business models, and deliberate inaction. Every fake ticket, every hidden fee, every mandated transfer or inflated resale is not just a flaw in the system. It reflects a system built to serve profit, not the people. But artists should be able to control how their tickets are sold. Fans should be able to trust the platforms they use. And independent venues should not have to fight for survival while others make billions off their risk. We are not asking for favors. We are demanding fairness. The agencies charged with protecting consumers and ensuring competition must meet this moment with more than words. In an era defined by division, live music and performance continue to create connection and common ground. And that is worth protecting.

Sincerely,

**The National Independent Venue Association**