

March 15, 2022

Jonathan Kanter
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Assistant Attorney General Kanter:

As live events continue to open up, American consumers are confronting skyrocketing ticket prices that are marked by opaque terms and exorbitant fees.¹ As the Department knows, live entertainment markets, especially ticket markets, are dominated by one corporation, Live Nation Entertainment, Inc. (Live Nation), which cemented its dominance through its 2010 merger with Ticketmaster. The merger was subject to a consent decree that was repeatedly violated by Live Nation, requiring the Department to seek and obtain an updated decree in 2020. Before and after the merger, Live Nation also engaged in an aggressive acquisition strategy to even further shore up its dominance. We write to urge the Department to investigate the state of competition in the live entertainment and ticketing industry, including any potential anticompetitive and anti-consumer actions by Live Nation, and to take action, as appropriate, to enforce the antitrust laws and restore competition to these important markets.

As we've written the Department previously,² there is little evidence that live event ticketing or related markets are any more competitive today than they were in 2010, when Live Nation and Ticketmaster first cemented their merger. Despite the consent decree, there have been few new entrants in these markets and troubling indicators of durable market power, such as excessive processing fees imposed on consumers that exceed one-quarter of a ticket price.³ For some recent concerts and live events, Live Nation has added more than 75% of the face value of the ticket in processing fees.⁴ Moreover, at the time of our August 2019 letter to the Department, it was clear that Live Nation had violated the behavioral conditions of its consent decree by

¹ See, e.g., Jessica Dicker, *Inflation at its worst: Some ticket prices are up as much as 100%*, CNBC (Jan. 30, 2022), <https://www.cnbc.com/2022/01/30/inflation-at-its-worst-some-ticket-prices-are-up-as-much-as-100percent.html>.

² Blumenthal and Klobuchar Letter to the Department of Justice (Aug. 27, 2019), <https://www.blumenthal.senate.gov/imo/media/doc/DOJ%20Ticketmaster-Live%20Nation%20Letter.pdf>; Klobuchar, Blumenthal and Booker Letter to the Department of Justice (May 14, 2020), <https://www.klobuchar.senate.gov/public/index.cfm/2020/5/klobuchar-blumenthal-booker-urge-justice-department-to-preserve-competition-between-live-performance-venues>.

³ See U.S. Government Accountability Office, *Event Ticket Sales: Market Characteristics and Consumer Protection Issues*, GAO-18-347, 4, <https://www.gao.gov/products/GAO-18-347>.

⁴ See Last Week Tonight with John Oliver (Mar. 13, 2022) at 13:55-14:10, <https://www.youtube.com/watch?v=y5M6otOMTF0>.

retaliating against venues that used the ticket platform of a competitor.⁵ In 2020, following reports of Live Nation’s repeat violations of the original consent decree, the Department obtained an updated decree that prevented Ticketmaster from threatening, withholding, or retaliating against venues that choose to work with competitors until 2025.⁶

As you know, industry participants have long complained about Live Nation leveraging its powerful market positions in ticketing, event promotion, sponsorship and advertising, artist management, and performance venue bookings to advantage its affiliate businesses up and down the entertainment value chain. To bolster its market power, Live Nation has engaged in an aggressive acquisition strategy to buy vertical competitors, including companies in the music festival and concert promoter markets. Between 2006 and 2021, Live Nation acquired 58 companies.⁷ Between 2013 and 2015, following the merger with Ticketmaster, Live Nation acquired the organizers of four of America’s top five festivals by attendance.⁸ Live Nation’s acquisition of Bonnaroo Music and Arts Festival eliminated the “independent” status of what was once the United States’ largest independent music festival.⁹

Live Nation has also used its market share to suppress competitors in the entertainment venue industry. In 2006, Live Nation paid \$350 million to acquire its closest competitor at the time, House of Blues Entertainment Inc.¹⁰ This deal gave Live Nation control over eight amphitheatres and 10 clubs and exclusive booking rights over five additional venues in Los Angeles.¹¹

During the COVID-19 pandemic, Live Nation continued its aggressive acquisition strategy. In 2020, Live Nation’s Ticketmaster completed an acquisition of Rival, a ticketing startup

⁵ In one violation reported in *The New York Times*, a Live Nation executive told executives at Live Nation’s most significant competitor, AEG, that AEG would lose valuable Live Nation shows if they did not use Ticketmaster’s ticketing services. See Ben Sisario and Graham Bowley, *Live Nation Rules Music Ticketing, Some Say With Threats*, N.Y. Times (Apr. 1, 2018), <https://www.nytimes.com/2018/04/01/arts/music/live-nation-ticketmaster.html>. The Justice Department later reported that six venue operators claimed Live Nation had used threats, exclusive conditions, and retaliation to force venue operators into contracting with Ticketmaster as their primary ticketing service. See Motion to Modify Final Judgment and Enter Amended Final Judgment, Dep’t of Justice (Jan. 8, 2020), <https://www.justice.gov/atr/case-document/file/1233396/download>.

⁶ Amended Final Judgment, Dep’t of Justice (Jan. 28, 2020), <https://www.justice.gov/atr/case-document/file/1241016/download>.

⁷ MandAsoft data on acquisitions by Live Nation Entertainment, Inc. (May 30, 2006 to Jan. 20, 2021), <https://mandasoft.com/acquisition/?Source=segmentView&SearchID=C102995403>.

⁸ Neil Shah, “Music Festivals: Peace, Love, and a Business Battle,” Wall Street Journal (Jul. 30, 2015), <https://www.wsj.com/articles/music-festivals-peace-love-and-a-business-battle-1438296207>.

⁹ Ray Waddell, “What Live Nation’s Bonnaroo Buy Means for Indie Festivals,” Billboard (May 1, 2015), <https://www.billboard.com/articles/business/6553736/what-live-nations-bonnaroo-buy-means-for-indie-festivals>.

¹⁰ Charles Duhigg, “House of Blues Sold to Live Nation,” Los Angeles Times (Jul. 6, 2006), <https://www.latimes.com/archives/la-xpm-2006-jul-06-fi-live6-story.html>.

¹¹ See *id.*

established by a former Live Nation executive to compete with Ticketmaster.¹² Last year, Live Nation continued to acquire new companies. It acquired a majority stake in Veeps, a platform for live-streaming concerts that also facilitates engagement between fans and musical artists.¹³ It also expanded internationally—acquiring Tixcraft, Taiwan’s leading music ticketing platform,¹⁴ PR Worldwide, one of Malaysia’s leading live events promoters,¹⁵ and OCESA, a leading events promoter in Latin America since 2019.¹⁶

We are deeply concerned that the Department’s past enforcement and negotiated remedies in this industry have failed to adequately foster and protect competition in live entertainment and ticketing markets. Live Nation has emerged as a dominant entertainment company, controlling 60 percent of the promotion business for major concerts while its top competitor, AEG, is still a distant number two, with only 20 percent of the market.¹⁷ Live Nation also owns more than 70 percent of the primary ticketing market for major concerts and tickets “80 of the top 100 arenas in the country.”¹⁸ Concert ticket prices, along with live event ticket prices, are on track to hit record highs this year.¹⁹

The status quo has resulted in ever-growing fees for consumers and poor consumer experiences when purchasing tickets for live events. A 2018 Government Accountability Office study of a sample of Live Nation tickets found that fees averaged 27% of the face value of a ticket.²⁰ Ticketmaster recently told the New York State Senate that fees are determined by “what the client venues in markets believe their customers are willing to pay to attend their live events.”²¹

¹² Dave Brooks, “After DOJ Approval, Ticketmaster Buys Former CEO’s Company Rival,” *Billboard* (Apr. 11, 2020), <https://www.billboard.com/articles/business/touring/9356552/ticketmaster-buys-rival-former-ceo-company>.

¹³ Murray Stassen, “Live Nation Buys Stake in Live-Streaming Concerts Platform Veeps,” *Music Business Worldwide* (Jan. 19, 2021), <https://www.musicbusinessworldwide.com/live-nation-buys-stake-in-live-streaming-concerts-platform-veeps/>.

¹⁴ “Ticketmaster Expands to Asia With Launch in Taiwan and Singapore,” *Ticketmaster* (Feb. 12, 2020), <https://news.ticketmaster.com/186321-ticketmaster-expands-to-asia-with-launch-in-taiwan-and-singapore>.

¹⁵ “Live Nation Expands Global Platform to Malaysia through Acquisition of PR Worldwide,” *Live Nation Entertainment* (Dec. 19, 2019), <https://www.livenationentertainment.com/2019/12/live-nation-expands-global-platform-to-malaysia-through-acquisition-of-pr-worldwide/>.

¹⁶ “Live Nation Closes Acquisition of OCESA, the Third Largest Promoter Globally and Leading Live Entertainment Company in Mexico, Further Growing Business in Latin America,” *Live Nation Entertainment* (Dec. 6, 2021), <https://www.livenationentertainment.com/2021/12/live-nation-closes-acquisition-of-ocesa-the-third-largest-promoter-globally-and-leading-live-entertainment-company-in-mexico-further-growing-business-in-latin-america/>.

¹⁷ Jennifer Oliver, “Ticketmaster, Live Nation Get Boomed: Concert-Goers File Class Action for ‘Unchecked’ Abuse of Market Power,” *The National Law Review* (May 5, 2020), <https://www.natlawreview.com/article/ticketmaster-live-nation-get-boomed-concert-goers-file-class-action-unchecked-abuse>.

¹⁸ Ben Sisario and Graham Bowley, “Live Nation Rules Music Ticketing, Some Say With Threats,” *N.Y. Times* (Apr. 1, 2018), <https://www.nytimes.com/2018/04/01/arts/music/live-nation-ticketmaster.html>.

¹⁹ Jessica Dicker, “Inflation at its worst: Some ticket prices are up as much as 100%,” *CNBC* (Jan. 30, 2022), <https://www.cNBC.com/2022/01/30/inflation-at-its-worst-some-ticket-prices-are-up-as-much-as-100percent.html>.

²⁰ *Event Ticket Sales: Market Characteristics and Consumer Protection Issues*, Government Accountability Office (Apr. 12, 2018), <https://www.gao.gov/products/gao-18-347>.

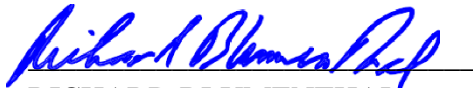
²¹ Final Investigative Report: Live Event Ticketing Practices, New York Senate at 28 (May 18, 2021),

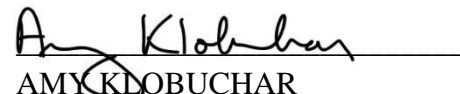
Multiple reports indicate the industry is rife with practices that prevent consumers from accessing tickets at affordable prices or prevent access entirely, including holdbacks and staggered sales, bots, lack of all-in pricing, and the reselling of free tickets.²²

We thus urge the Department to investigate the state of competition in the live entertainment and ticketing markets. In particular, we request that the Department assess Live Nation's compliance with the 2020 consent decree. We also urge the Department to investigate the effects of Live Nation's recent acquisitions on competition and pricing in the live entertainment industry.

Thank you for your attention to this important matter.

Sincerely,


RICHARD BLUMENTHAL
United States Senate


AMY KLOBUCHAR
United States Senate

https://www.nysenate.gov/sites/default/files/article/attachment/nys_senate_igo_committee_report_-_live_event_ticketing_practices.pdf.

²² See *id*; see also "That's the Ticket" Workshop, Federal Trade Commission (May 7, 2020), https://www.ftc.gov/system/files/documents/reports/thats-ticket-workshop-staff-perspective/staffperspective_tickets_final-508.pdf; https://ag.ny.gov/pdfs/Ticket_Sales_Report.pdf; Event Ticket Sales: Market Characteristics and Consumer Protection Issues, Government Accountability Office (Apr. 12, 2018), <https://www.gao.gov/products/gao-18-347>; Obstructed View: What's Blocking New Yorkers from Getting Tickets (Jan. 28, 2016), https://www.nysenate.gov/sites/default/files/article/attachment/nys_senate_igo_committee_report_-_live_event_ticketing_practices.pdf.