

Testimony for the Record from the Break Up Ticketmaster Coalition

The Break Up Ticketmaster Coalition¹, made up of organizations representing artists, managers, music industry workers, young voters, and over 100,000 music, theater, and sports fans who have experienced harms in the live events industry due to Live Nation Entertainment's ("Live Nation") concentrated market power would like to provide the following Testimony for the Record to the Senate Judiciary Committee's hearing, *That's the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment*. For too long Live Nation's monopoly has gone unchecked, and as a coalition we advocate to structurally change Live Nation's business model to restore competition to the live events industry.

Each coalition member has experienced Live Nation's market dominance and abuse that harms artists, live event industry workers, venues, and fans. While the ticketing business line, Ticketmaster, is often the most visible to the general public, Live Nation's control of multiple businesses within this industry—from concert promotion to venue and festival ownership, and artist management services—solidifies its monopoly status and presents the true threat to competition.

Through Ticketmaster, Live Nation controls the majority of the "primary" ticketing market for live events. The two companies merged in 2010 after a negotiated consent decree with the Department of Justice (DOJ). Before the merger, Live Nation and Ticketmaster were briefly direct competitors. In 2008, Live Nation decided not to renew its exclusive contract with Ticketmaster, and instead enter the primary ticketing marketplace. Ticketmaster had dominated the ticketing services for nearly 83% of major concert venues in the country up until this point. Tickets.com, the nearest competitor, provided services for less than 4% of the market.²

When Live Nation launched its own primary ticketing platform, it intended to compete with Ticketmaster by leveraging its position as a major operator of concert venues and a major event promoter. They were successful in competing with Ticketmaster. By the time the merger was announced in February 2009, Live Nation had won more than 16% market share in the primary ticketing space.³ The proposed merger was challenged by the DOJ on anti-competitive grounds, a position supported by a number of stakeholders. Now, Ticketmaster is more than just the primary ticketing platform. It operates a secondary marketplace as well, and uses its leverage in the primary market to harm consumers and potential competition on the secondary market.

But as a ticketing platform it makes money by running both a primary and secondary/resale service. When serving as the ticketing platform for an event, Ticketmaster's primary marketplace takes a percentage of the ticket sale revenue, as well as collects a series of platform service fees that are tacked on to each sale. It also runs a "secondary" or resale platform, where tickets that were supposedly (although not always) purchased from the primary marketplace can be re-sold, often at a profit.⁴ Ticketmaster leverages its 80

¹ <https://www.breakupticketmaster.com>

² *United States, et al. v. Ticketmaster Entertainment, Inc., et al. (2010)*, page 10.
<https://www.justice.gov/atr/case-document/complaint-224>

³ *United States, et al. v. Ticketmaster Entertainment, Inc., et al. (2010)*, page 13.
<https://www.justice.gov/atr/case-document/complaint-224>

⁴ Krista Brown, Moe Tkacik, "Ticketmaster's Dark History," *The American Prospect*. December 21, 2022.
<https://prospect.org/power/ticketmasters-dark-history/>

percent of the major venue ticket sales market and its vertical integration to advance its position in the promoter, venue, management, and secondary resale lines of business.

For years, Live Nation/Ticketmaster have also used its dominant market positions to drive financial returns by fleecing consumers with junk fees. Between 1996 and 2003, the average concert ticket price rose 82 percent, while the CPI rose only 17 percent.⁵ Evidence suggests Ticketmaster's use of its market power to impose junk fees as the primary driver of these increases.

Since Live Nation merged with Ticketmaster in 2010 over the platform's deceptive fee practices, a myriad of lawsuits highlighting the deceptive nature of their fee structure have been filed. Specifically, a 2020 class action complaint noted that Ticketmaster's anticompetitive behavior led to its dominance, and "as a result, over 70% of tickets for major concert venues in the U.S. are sold through Ticketmaster, despite that—as it has done for years—Ticketmaster charges supracompetitive fees made possible by its dominant market position."⁶

In a 2020 lawsuit alleging antitrust violations against Ticketmaster, its own expert admitted that the company generates gross profits of more than 80%, largely generated by unnecessary fees.⁷ Similarly, in 2017, Ticketmaster CEO Michael Rapino admitted that some of their ticket fees are "not defensible."⁸ By contrast, the non-Ticketmaster-controlled marketplaces generally have lower prices for consumers. The GAO highlighted this difference when comparing fees in the UK, where fees can be anywhere from a third to half that of the US, to the US, with average fees of 22% and as high as 38%.⁹

Live Nation leverages this highly profitable ticketing business to advance its position in its lower-margin venue and concert promotion businesses. Live Nation controlled 320 venues in 2021.¹⁰

⁵ Krista Brown, "Better than Revenge: Swifties Help Expose Ticketmaster's Monopoly," Rolling Stone Magazine. November 23, 2022.

<https://www.rollingstone.com/music/music-features/taylor-swift-ticketmaster-live-nation-monopoly-antitrust-commentary-1234635257/>

⁶ *Van Iderstine et al v. Live Nation Entertainment, Inc. et al.* (2020). Ticket News.

<https://www.ticketnews.com/wp-content/uploads/Live-Nation-Accused-Of-Monopolizing-Ticket-Sales.pdf>

⁷ *Van Iderstine et al v. Live Nation Entertainment, Inc. et al.* (2020)

⁸ Dave Brooks, "Live Nation's Michael Rapino Admits Some Ticket Fees 'Not Defensible'," Billboard. 2017.

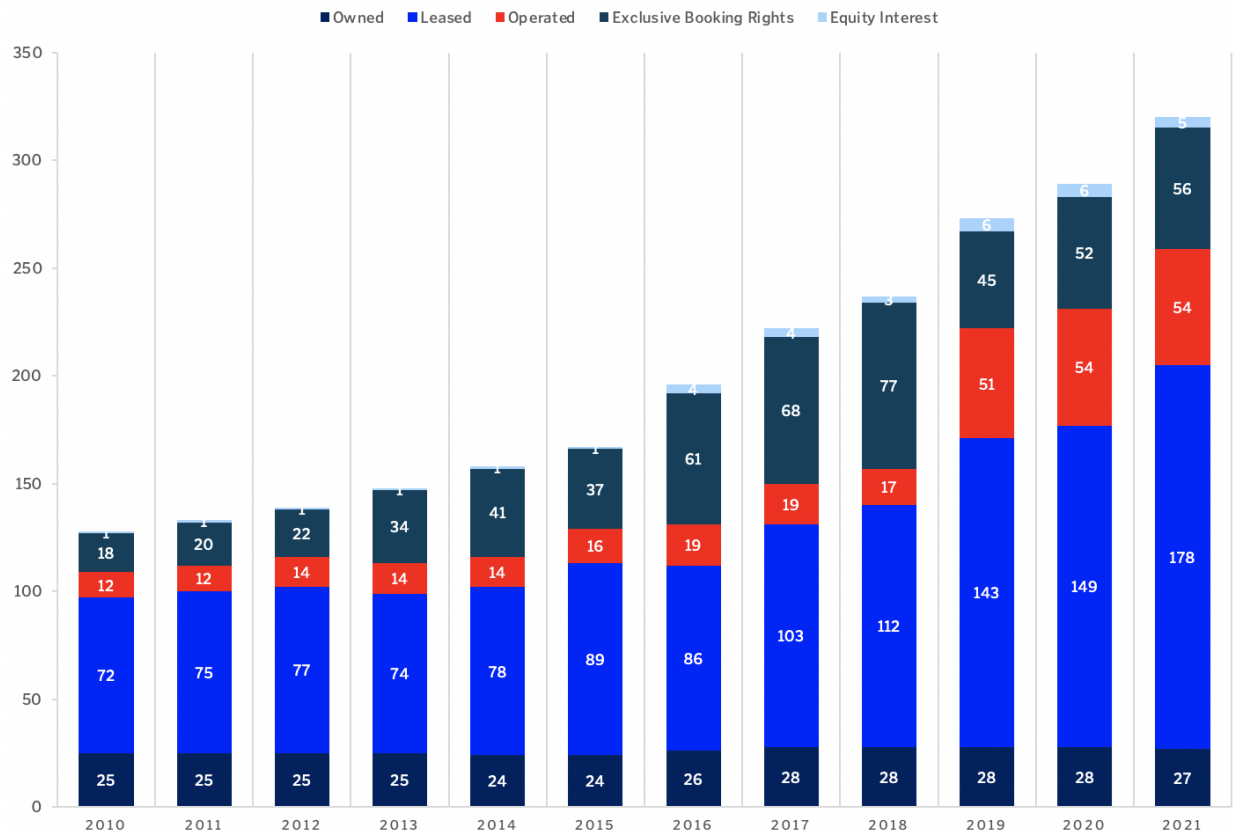
<https://www.billboard.com/pro/michael-rapino-deposition-ticketmaster-fees-songkick-shuts-down/>

⁹ *Event Ticket Sales: Market Characteristics and Consumer Protection Issues*. Government Accountability Office; Report to Congressional Requesters. April 2018. <https://www.gao.gov/assets/gao-18-347.pdf>

¹⁰ Live Nation 2021 Annual Report.

https://d1io3yog0oux5.cloudfront.net/_d2b887510cdc4efb0a99d3749abb92db/livenationentertainment/db/670/6205/annual_report/Live+Nation+2021+Annual+Report.pdf

LIVE NATION VENUE CONTROL FROM 2010 TO 2021



(See Appendix)

Given that live music events constitute a primary revenue stream for many musicians, sometimes constituting the overwhelming majority of their income, this control of the venues provides Live Nation with significant leverage over artists' livelihoods.¹¹ As the dominant player in concert promotion services, controlling over 60 percent of the market, it is an ever increasing challenge for artists to make money without Live Nation taking a significant portion of concert revenue.¹²

The Break Up Ticketmaster Coalition commends the Senate Judiciary committee for holding this vitally important hearing. A competitive live-event industry is critical to consumers, small business owners, and artists, especially as we begin to put the COVID-19 pandemic behind us and return to concert halls, theaters, and sports arenas. Live Nation's monopoly over this industry demands structural solutions. We hope this hearing will be the beginning of Congress examining anticompetitive behavior in this industry to restore a fair market. Each member of the coalition will be happy to engage with the committee to further this investigation and seek appropriate remedies.

¹¹ *Heckman v. Live Nation Entertainment*. US District Court Central District of California, Western Division. (2022). <https://www.ticketnews.com/2022/01/live-nation-ticketmaster-anti-competitive-lawsuit/>. Page 12.

¹² *Heckman v. Live Nation Entertainment*. Page 15.

