

**Committee on Energy and Commerce
Subcommittee on Oversight and Investigations**

**Hearing on
“In the Dark: Lack of Transparency in the Live Event Ticketing Industry”**

February 26, 2020

Ms. Amy Howe, President & Chief Operating Officer, Ticketmaster

The Honorable Diana DeGette (D-CO)

1. At the hearing, you testified that “all consumers have to opt-in for marketing purposes, that’s regardless of what platform they’re buying on” and that Ticketmaster “cannot use any information that is acquired from another platform for any marketing purposes.” However, Ticketmaster’s privacy policy (effective January 1, 2020) (the “policy”) expressly notes that Ticketmaster collects consumer information, including “from third parties,” and uses this information “for marketing purposes.” The policy also details how consumers may “opt out of receiving [Ticketmaster’s] marketing emails,” but is silent on any “opt-in” requirement.
 - a. Does Ticketmaster define any secondary ticketing websites as “third parties” under the policy? If yes, please explain how the policy is consistent with your testimony that Ticketmaster “cannot use any information that is acquired from another platform for any marketing purposes.”

Secondary ticketing websites are considered third parties under our privacy policy. However, the response I provided was in the context of the NFL “open ticketing” relationship, in which Ticketmaster provides ticket validation services to other ticket marketplaces, including Stubhub and SeatGeek, on behalf of the NFL. As I stated in my testimony, Ticketmaster receives information about a buyer of NFL tickets from SeatGeek or StubHub, solely to validate and fulfill their customer’s tickets. This is required under our agreement with the NFL, and Ticketmaster does not use the information for any other purpose, including marketing unless a consumer opts-in.

- b. If “all consumers have to opt-in for marketing purposes,” why is Ticketmaster’s policy silent on any “opt-in” requirement?

Ticketmaster’s privacy policy addresses consumers’ privacy rights on Ticketmaster’s website. My response was in the context of our relationship with the NFL, and my statement referred to Ticketmaster’s policy of not using consumers’ information from secondary ticketing websites for marketing purposes without their opt-in consent.

- c. The policy also states that “if you buy tickets from [Ticketmaster] we'll enroll you in our newsletter.” Most consumers who purchase tickets through Ticketmaster “opt in” to receive this newsletter? If not, please explain how the policy is consistent with your testimony that “all consumers have to opt-in for marketing purposes...”

Consumers who buy tickets on Ticketmaster’s website have the option to opt-out of receiving the newsletter. The opt-out screen is below. Again, my statement was made in the context of our specific relationship with the NFL and the marketplaces it has licensed to sell validated NFL tickets, including Stubhub and SeatGeek.

Where consumers have purchased tickets directly from Ticketmaster’s website, they can unsubscribe from any marketing email, change marketing preferences in their Ticketmaster account. Ticketmaster provides robust and meaningful customer privacy protections and is compliant with both the California Consumer Privacy Act, as well as Europe’s Global Data Protection Regulation. All of our consumers are able to email our dedicated global privacy team or opt-out of receiving communications under mechanisms we created to comply with our global privacy control framework, which provides all consumers, irrespective of location, optionality and choice as to how their information is used.

The screenshot shows the Ticketmaster website's navigation bar with the logo, a search bar, and menu items for Concerts, Sports, Arts & Theater, Family, VIP, Deals, a user profile icon, and Help. Below the navigation bar is the 'Account Settings' page. The page has three tabs: Profile, Subscriptions (which is active), and Connected Accounts. A message states: 'When you tell us who you love, we can tell you what they're up to. Subscribe to get the latest, breaking news about all things live.' Below this, it says 'Subscriptions will be sent to the following Ticketmaster account: [redacted]@gmail.com Edit Profile'. There is a section for 'Get All Live Guide Alerts' with a dropdown arrow, containing three options: 'Ticket Alert' (unchecked), 'Team Alert' (unchecked), and 'Venue Alert' (checked). To the right of the settings is a 'MY FAVORITES' section with a purple heart icon, the text 'Tell Us Who You Love', and a description: 'Add and manage your favorite teams, artists and more, to personalize your alerts.' Below this is an 'Add Favorites' button.

- Performer News**
Get emails that provide details about when to buy tickets for all your favorites.
- Spotlight News**
Get news that covers special events, new videos, and exciting artist and team announcements.
- Special Event Offers**
Take advantage of timely ticket discounts, gift with purchase offers, and much more.
- Tips and Info**
Get special announcements and helpful information on all things Ticketmaster.
- Partner Offers**
Learn about special and exclusive offers from our different partners.
- SMS Text Notifications (Coming Soon)**
Receive notifications about your upcoming events and special offers via text message.

Update

- Unsubscribe From All Marketing Newsletters**
We're Sorry to See You Go
Come back any time to resubscribe so you'll always have the latest news about cool events, announcements, and ticket perks. Don't worry, you'll still receive purchase confirmation emails, order status emails, delivery, and event reminders.

Update

2. The policy also states that Ticketmaster “will share [consumer] information with our business partners,” who may “send[] you marketing communications.” It also states that Ticketmaster “will share information with third parties who sell products or services to you,” such as third parties who sell “merchandise.”
 - a. Must consumers first “opt-in” before Ticketmaster shares their data with Ticketmaster’s “business partners” or other third parties who sell consumer products or services? If not, please explain how the policy is consistent with your testimony that “all consumers must opt-in for marketing purposes...”

Consumers have the ability to opt-out of the sharing of their information from the Ticketmaster website with our business partners and third parties. As indicated in my answer to 1(c) above, Ticketmaster takes privacy extremely seriously and has invested significantly to ensure we operate under a global privacy control framework, which provides all consumers, irrespective of location, optionality and choice as to how their information is used.

3. What types of competitive advantages do brokers have and how do they unfairly disadvantage average consumers?

As I stated in my written testimony, two concepts that create an imbalance within the ticketing industry are: (1) supply and demand, and (2) pricing. First, for many of the highest-profile events, the demand from consumers for tickets far exceeds the number of seats available to purchase. Second, the performing artists often set the prices of these in demand tickets well below true market value in order to build or maintain goodwill by allowing fans of all income levels to access tickets.

This creates a lucrative opportunity for players in the ticketing ecosystem to take advantage of a supply/demand imbalance that mixes with below market prices intended for real fans. This “arbitrage” opportunity is not small. In 2019, we estimate the secondary concert market to exceed \$10 billion, almost all of which is paid by fans to the benefit of middle men and resale marketplaces like Stubhub, Vivid Seats, and Ticket Network, not the Event Organizer, artist or team who paid to produce the event. We believe the vast majority of concert resale activity on these sites is sold by professional brokers, not individual fans.

This economic incentive results in significant investment in tools by bad actors to capitalize on this arbitrage opportunity. The most egregious of these tools involves the use of bots, which programmatically attack the primary market ticket systems with billions of real-time requests to select and purchase tickets. For some of the highest demand events, this activity is akin to using a computer to purchase millions of lottery tickets with different numbers while a consumer can only buy a single ticket. Bots are also used to reserve and hold, not purchase, thousands of tickets at a time, thereby creating artificial demand by shutting actual consumers out from buying tickets at face value while driving up prices of comparable tickets on the secondary market.

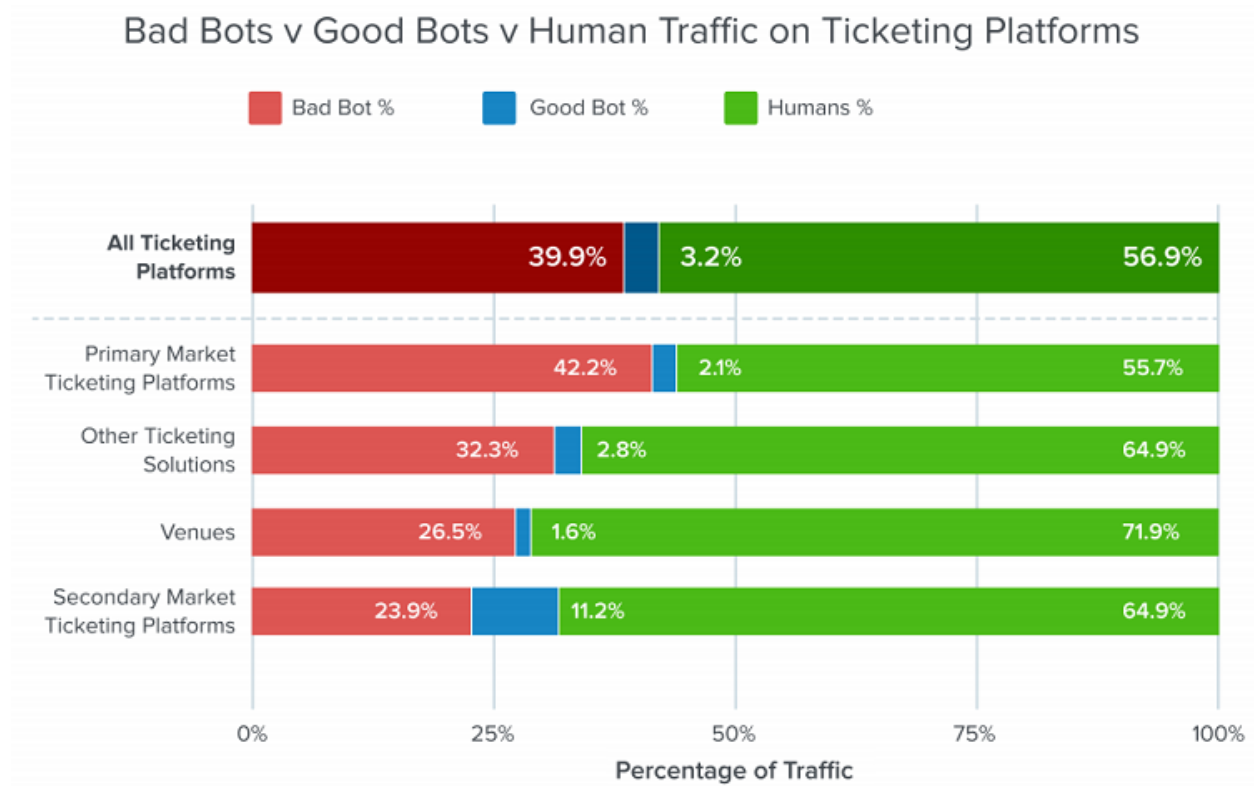
Bots are able to (i) detect and reserve ticket inventory, often in a matter of seconds; (ii) control multiple accounts to exploit published ticket limits; (iii) create accounts with false information to hide the identity of a purchaser; and (iv) harvest data about pricing and consumer demand in order to aid decision making that drives up the price on the secondary market.

Ticketmaster has made deep and substantial investments in fighting these tactics with a combination of proprietary tools and technologies as well as implementation of leading third-party tools such as Distil and IP-based blocking technology. We have also added an additional layer of security by requiring all newly created accounts on Ticketmaster to employ Two-Factor Authentication, which makes it more difficult to create single-use accounts in bulk.

The reality of the situation is that, in spite of the passage of the BOTS Act (of which Ticketmaster was a staunch supporter), the number of bots Ticketmaster has blocked from our site has continued to grow exponentially, tripling in the time since the BOTS Act was enacted. According to a 2019 report by Distil, a leading bot-mitigation software provider, 40% of activity on ticketing sites is computer automated, and up to 67% of bad bot traffic occurs in the United States.¹ Even worse, Distil reports that bot attacks on primary market platforms like Ticketmaster is almost double that of attacks on secondary market platforms, further illustrating the challenge consumers have buying tickets in the first instance at the price set by the Event

¹ See Daniel Sanchez, “Nearly 40% of Ticketing Traffic Comes from Bad Bots, Study Finds” (Digital Music News, Feb. 28, 2019), available at <https://www.digitalmusicnews.com/2019/02/28/bots-ticketing-traffic/>.

Organizer. When blocked from buying face value tickets in the first instance, consumers are often forced to purchase tickets at inflated prices on the secondary market sites if they want to attend an event.



Brokers can also disadvantage consumers by selling tickets they do not possess. Speculative ticketing is essentially a mass-arbitrage scheme employed by some brokers to sell tickets they do not possess, and, as such, do not have a legal right to sell. Speculative tickets are frequently offered on secondary marketplaces without disclosure of their speculative nature, often before tickets have even been placed on sale to the general public by the Event Organizer. These marketplaces do very little to stop speculative listings placed on their websites. In many cases, consumers purchase speculative tickets on the secondary market at inflated prices when face value tickets are still available on the primary market.

The Honorable Brett Guthrie (R-KY)

1. As you know, the Better Online Ticket Sales Act (BOTS Act) was signed into law in 2016. Neither the Federal Trade Commission (FTC) nor the states have taken any enforcement action under the BOTS Act. Your testimony notes that “[w]e need enhanced enforcement of the BOTS Act of 2016.” Can you explain why you think enhanced enforcement is necessary?

- a. Would there be a benefit to the consumer if the FTC and states started to take enforcement actions under this statute? Why or why not?

Bots continue to plague the online ticketing process. Despite passage of the BOTS Act, unscrupulous actors continue to use bots, depriving real fans of the opportunity to purchase tickets at the prices set by Event Organizers. In 2019 alone, Ticketmaster blocked nearly 3 billion purchase attempts by bots each month. It is absolutely clear that the prevalence of the use of bots, even four years after enactment of the BOTS Act, demonstrates the need for more aggressive enforcement of the law.

In addition to the tens of millions of dollars Ticketmaster has spent fighting bots, we have also supported legislation at the state and federal levels to ban bots and pursued private legal action against bot users. Although we have taken such legal action, and we have successfully assisted in the passage of state level bans on bots, there has been no meaningful deterrence against their usage. Unfortunately, the economic incentive to utilize bots (further evidenced by the \$10B resale market), still outweighs the risk of an enforcement action. We stand willing and able to help the Federal Trade Commission, state Attorneys General and other law enforcement agencies in any attempt to help protect consumers from these bad actors, and to provide the deterrence necessary to stop what is currently the single biggest impediment to consumers' fair access to tickets.

2. Does your company and/or affiliated websites utilize 'all-in' pricing and/or an 'all-in' pricing toggle feature? Why or why not?
 - a. If so, what percentage of your websites and/or affiliated websites utilize 'all-in' pricing?

Ticketmaster utilizes "all-in" pricing in almost every country and jurisdiction in which we operate and are legally required to do so, including Canada, the European Union, Australia, and New Zealand. Unfortunately, the reality is that, for any single marketplace to avoid being disproportionately harmed by using all-in pricing, all members of the live event ticketing industry must be legally required to list all prices and fees up-front. In the absence of this requirement, consumers cannot make meaningful (apples-to-apples) price comparisons between marketplaces.

We believe that consumers should be able to see the total cost of their tickets, including all fees, at the beginning of the purchase process, not only at the end. Requiring all live event ticketing marketplaces to move to "all-in" pricing (that is, to include all required fees in the price from the first purchase page), and robust enforcement of that requirement, would prevent price manipulation, promote transparency, and protect consumers.

As the Government Accountability Office (GAO) concluded "[s]ellers that do not provide enough or full information on prices through hidden fees could have a competitive advantage because they would be perceived as offering lower prices over their competitors who do provide

full information showing the price.”² As a result, Ticketmaster supports legislation that would require all-in pricing in the United States, and there seemed to be consensus among the witnesses at the hearing for such a requirement.

3. Your testimony notes that “[s]ome marketplaces also take advantage of the industry practice of disclosing the fees later in the purchase process to manipulate the list price of the ticket, making the ticket price appear less expensive upfront.” Please explain what you mean by that and how that is different than how Ticketmaster discloses its fees to consumers who purchase tickets on its website.

- a. In your opinion, how prevalent is this practice throughout the industry?

Not disclosing fees at the beginning of the purchase process enables a marketplace to manipulate the list price of a ticket to make such prices appear less expensive upfront, a practice commonly used in the industry and known as “marking down” tickets. This practice involves reducing a ticket’s up-front list price, only to add the amount of the reduction into the mandatory fees charged later in the transaction.

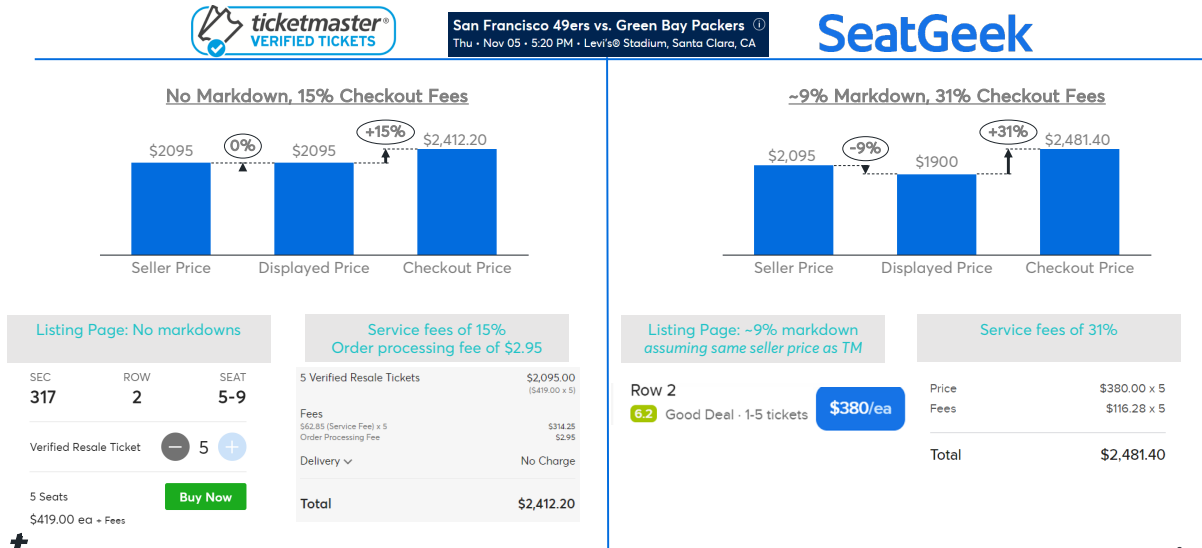
Ticketmaster provided multiple examples of this deceptive practice to the Committee in our written submission on December 23, 2019.

In one such instance, a resale ticket was offered by a seller for \$75. Ticketmaster advertised the ticket to consumers for \$75, and, after 17% in fees, charged a total price of \$87.75. A competitor “marked down” the exact same ticket by 10%, advertising the ticket to consumers for \$68, but then added 36% in fees for a total ticket price of \$92.77. Thus, on the competitor’s website, the ticket was initially presented as less expensive than what was offered on Ticketmaster, when, in fact, the ticket ended up being 6.5% more expensive after the addition of fees. Based on our observations, this practice appears to be growing on other resale platforms, comprising a majority of their ticket listings.

To be clear, Ticketmaster does not engage in the practice of marking down resale tickets and transferring the difference to fees. Extensive examples of this type of deceptive and egregious practice meant to trick consumers into paying a higher all-in price were attached to our written testimony as Exhibit 1, and a recent example from May 12, 2020 appears below.

² Government Accountability Office, *Event Ticket Sales*, at 42 (April 2018), available at <https://www.gao.gov/assets/700/691247.pdf> (“GAO Report”).

SeatGeek applies markdown, pairs with 31% buyer fee; listing appears 9% cheaper than TM but all-in is more expensive



t Screenshots taken on 5/9/20 at the same time to avoid confusing pricing adjustments by seller with marketplace markdowns
 • Each marketplace had only one listing of five tickets in that section and row, so no chance comparison is between different listings

4. Does your company or any of its affiliated websites sell dynamically priced tickets?
 - a. What percentage of overall sales does dynamically priced tickets represent?

Ticketmaster provides a number of tools which enable our Event Organizers to dynamically price tickets.

Dynamic pricing is a commonly used practice across many industries with perishable inventory. It allows event organizers to price to market, which can result in ticket prices either decreasing or increasing. When demand exceeds supply, dynamically pricing the ticket (up) allows the Event Organizer and artist to capture the true market value of the ticket, money that would otherwise go to brokers. In situations where supply exceeds demand, particularly in the last-minute window, dynamically pricing tickets (down) allows the Event Organizer and artists to sell tickets that they wouldn't otherwise sell, thereby allowing more fans to purchase tickets to an event at more affordable prices.

For most high-demand concerts, the percentage of seats being dynamically priced (up to market) is approximately 5% of the total. Nevertheless, some concert promoters and artists are finding dynamic pricing to be a much more effective way to increase total gross sales from a show, while, in some cases, decreasing the average ticket price paid by fans for the rest of the house. This is accomplished by selling some of the best seats in the house for much more than they previously would have, which enables them to decrease the price of some of the seats further away from the stage. What's important to note, however, is that these market prices are the same prices fans would have paid for these best seats, they are simply paying the artist (the

IP owner) rather than a middleman. Over time, as artists continue to make the majority of their income from touring, and as live events become increasingly expensive to produce, we anticipate more concerts will use dynamic pricing to recapture economics that were previously lost to secondary resellers.

The practice of dynamic pricing is more prevalent in the sports industry, where teams use a variety of tools and practices, including selling tickets to professional sellers to increase distribution. In the case of sports, mid-week games against weaker opponents may be dynamically priced lower, whereas weekend games against playoff contenders may yield higher prices.

- b. Are tickets that are held back at the on-sale by the artist, promoter, venue, etc. later posted for sale as dynamically priced tickets rather than face value?

In the vast majority of cases, the number of seats truly “held back” by an artist is extremely small, currently averaging approximately 5% or less of the total seats being made available for sale to consumers. These seats allow the Event Organizer or artist to allocate tickets for marketing and promotion, sponsors, VIPs, and to family, friends, sponsors, and crew and even to address production issues that impact seats.

It is possible that, for any given event, these tickets could be opened for sale to the public and priced dynamically. That decision would be made by the Event Organizer, and would be affected by a number of variables, including the quality of the seats, the demand for the event, the time to the event, and the available supply of similar tickets. Since demand for tickets is typically highest at the on-sale, Event Organizers are not rewarded for holding back tickets that would otherwise sell at market clearing prices during the highest demand sales window. Tickets that are released late in the sales cycle are typically priced at face value to ensure they are sold by show time.

In any and all cases, as a platform, it is our strong belief that pricing and inventory management decisions should be the sole right of the Event Organizer, the rights holder who has developed their intellectual property, paid rent to the facility, and paid for all the staffing and production required to perform. These decisions should not be made by ticketing platforms or anyone else who does not own the IP nor has taken any risk to create the event in the first place.

- c. Does your company or any of its affiliated websites make disclosures to consumers when a ticket is dynamically priced, and what that means? If so, what does that look like?

Yes, we disclose in our “Pricing and Availability FAQs” and our “What are Official Platinum Seats?” FAQs that prices are subject to change and may be priced dynamically. Screen shots are included below.

BUY TICKETS

How are ticket prices and fees determined?

Article

How are ticket prices and fees determined?

The standard tickets sold on Ticketmaster are owned by our clients (venues, sports teams or other event promoters) who determine the number of tickets to be sold and set the face value price. In the case of resale tickets, listing prices are determined by the seller, which can include fans or season ticket holders. Note that for certain events, Ticketmaster may not be the primary ticket provider.

In some instances, events on our platform may have tickets that are "market-priced," so ticket and fee prices may adjust over time based on demand. This is similar to how airline tickets and hotel rooms are sold and is commonly referred to as "Dynamic Pricing."

Ticket fees (which can include a service fee, order processing fee and sometimes a delivery fee) are determined in collaboration with our clients. In exchange for the rights to sell their tickets, our clients typically share in a portion of the fees we collect. The portion of fees we keep helps us to provide our clients with software, equipment, services and support to manage their tickets and box office, and provide the sales network used by clients to distribute tickets to fans. The remainder, when taken with other revenues, is how we earn a profit.

The total cost of a ticket can be made up of:

Face Value Price

The face value price (also known as the established price or base ticket price) is determined by our clients. In many circumstances, face value prices are set at the time of the initial on-sale and stay the same until the event but prices can, and are often are, adjusted up or down over time. In either case, Ticketmaster collects the face value price and remits it to our clients.

Service Fee and Order Processing Fee

In almost all cases, Ticketmaster adds a service fee (also known as a convenience charge) to the face value price, or in the case of a resale ticket to the listing price, of each ticket. The service fee varies by event based on our agreement with each individual client.

In addition to the per ticket service fee, an order processing fee is typically charged. Unlike the service charge, which is added to each ticket, the processing fee is charged once for each order. The processing fee offsets the costs of ticket handling, shipping and support and as a result, the processing fee is generally not charged on in-person box office purchases. In some cases, Ticketmaster's order processing costs may be lower than the order processing fee. In those cases, Ticketmaster may earn a profit on the order processing fee.

In both cases, these fees are collected by Ticketmaster and typically shared with our clients.

Delivery Fees

Delivery options are determined by our clients and can vary from event to event. We offer a variety of ticket delivery options that vary in price, dependent upon the delivery method chosen. Delivery options may include Mobile Tickets, Will Call pickup, Print-at-Home, US Mail or UPS. The UPS delivery fee may not reflect the actual cost UPS charges Ticketmaster to deliver tickets via UPS. In some cases, delivery fees may include a profit to Ticketmaster.

Facility Charge

Each client decides whether to include a facility charge on ticket purchases. These additional fees typically help clients operate and invest back in the venues themselves. Facility charges may vary from event to event and can be raised or lowered over time. Ticketmaster does not share in facility charges, we simply collect them for venues.

Taxes

City, state, and local taxes (provincial and Federal Goods and Services taxes in Canada) are typically included in the face value of the ticket or in the fees. In some jurisdictions, however, taxes may be listed as a separate charge.

[Buy Tickets](#)

Related Articles

[Purchase Policy](#)

[Terms of Use](#)

[Sell Tickets with Ticketmaster](#)

[Terms Regarding Certain Cancelled, Rescheduled and Postponed Events \(COVID-19\)](#)

[How do I find ticket prices and fees?](#)

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BUY TICKETS

What are Official Platinum Seats?

Article

What are Official Platinum Seats?

Official Platinum Seats are premium tickets to concerts and other events made available by artists and Event Organizers through Ticketmaster. They give fans fair and safe access to some of the best seats in the house.

Are Official Platinum Seats resale tickets?
 No. Official Platinum Seats were not purchased initially and then posted for resale; they are being sold for the first time through Ticketmaster. Ticketmaster's Official Platinum seat program enables market-based pricing (adjusting prices according to supply and demand) for live event tickets, similar to how airline tickets and hotel rooms are sold. The goal is to give the most passionate fans fair and safe access to the best tickets, while enabling artists and other people involved in staging live events to price tickets closer to their true market value.

Why can't I buy Official Platinum Seats for certain events?
 Currently, Official Platinum Seats are not available for all events. Be sure to check back often as new events are continually being added.

How do I buy Official Platinum Seats?
 For events where they are available, please note that Official Platinum Seats can only be purchased online at www.ticketmaster.com, and they cannot be exchanged for a different event or purchased with a Ticketmaster Gift Card.

What is the Current Price per ticket?
 The price you pay is the original price of the ticket. Official Platinum Seats were not purchased initially and then posted for resale; they are being sold for the first time through Ticketmaster on behalf of the artist or event provider.

Other amounts or fees may also be included in the Current Price, or may be added on top of the Current Price. If additional amounts are added on top of the Current Price, they will be displayed before you complete your purchase.

[Buy Tickets](#)

Related Articles

- [Can I get a refund for Official Platinum Seats?](#)
- [Can I buy a ticket for only one Official Platinum Seat?](#)
- [Can I buy tickets with Google Pay?](#)
- [Purchase Policy](#)
- [Ticketmaster's Face Value Ticket Exchange](#)

Taylor Swift: Lover Fest West More info

Date & Time TBA
SoFi Stadium, Inglewood, CA

Please Note: The event organizer has had to postpone your event. The rescheduled date will... [more](#)

Your Tickets

Event ticket limit: 6 Full ticket limit info

SEC	ROW	SEAT
VIP130	3	8

Official Platinum \$695.75 + Fees

1 Seat Next

Official Platinum ✕

Platinum Tickets are tickets that are dynamically priced up and down based on demand. Platinum Tickets are not part of VIP packages - they are tickets only.
[Click here to learn more about Platinum Tickets!](#)

PIT 2
STAGE

- Your testimony notes that you believe “that not only would mandatory inventory disclosure not help fans get fair access to tickets, but it would likely create more challenges for fans. Why do you believe this type of disclosure would likely create more challenges for fans?”

a. What do you believe would be more helpful to fans?

Although some in the industry have attempted to argue that the biggest threat to fair access for consumers is not knowing how many tickets are made available for sale, this argument is nonsensical. As we stated, lack of access to primary tickets is created by high-demand and/or bots, not because tickets are being held back by Event Organizers.

Despite arguments to the contrary, Event Organizers do not have a financial incentive to hold back tickets because Event Organizers generate the most revenue during the primary on-sale. As a result, mandating inventory disclosure would not increase the availability of tickets for real fans. Even the recent GAO Report noted it was “[u]nclear how useful [inventory disclosure] information is for consumers.”³

Ironically, our standard practice of showing all available inventory has already proven to make it even harder in some cases for consumers to access tickets as it makes it much easier for unethical brokers and bot users to determine the demand profile of an event. In doing so, these entities are able to more effectively target supply and manipulate the market by using Ticketmaster’s pricing data to set higher prices on the secondary market.

A particularly egregious practice that relies on the misuse of an event’s inventory availability is commonly known as “mirroring.” In this scheme, brokers search primary marketplaces using computer automation to determine what tickets are available. With this information, these bad actors falsely represent all available primary seats as valid resale listings, but at prices often well above face value. Only after an unwitting consumer purchases one of the speculative ticket listings does a seller buy the tickets in the primary market to fulfill the order.

³ *Id.* at 36.

STUBHUB MIRRORING PRIMARY INVENTORY NO TICKETS HAVE BEEN SOLD IN REAR MEZZANINE RIGHT SIDE

TINA - The Tina Turner Musical
 Mon • Dec 30 • 8:00 PM
 Lunt-Fontanne Theatre, New York, NY

More Dates

- 2:00pm
- 8:00pm
- DEC 27 Fri 8:00pm
- DEC 28 Sat 2:00pm 8:00pm
- DEC 29 Sun 2:00pm 7:30pm
- DEC 30 Mon 8:00pm
- JAN 1 Wed 8:00pm

Your Tickets

Event ticket limit: 11 Full ticket limit info

SEC	ROW	SEAT
RMEZZ	N	8

Standard Ticket \$99.00 + Fees

1 Seat Next

STUBHUB MIRRORING PRIMARY INVENTORY 24 SEATS DISPLAYED IN REAR MEZZANINE RIGHT SIDE

MON TINA - The Tina Turner Musical New York Tickets
 DEC 30 8:00 PM at Lunt Fontanne Theatre, New York, NY

Get notified at the right price! [Set price alert](#)

Section	Row	Price
Rear Mezzanine Right	L	\$148.84
1-4 tickets Electronic		Great value
Rear Mezzanine Right	N	\$155.99
2-4 tickets Mobile ticket		Great value
Rear Mezzanine Right	J	\$169.00
1-4 tickets Mobile transfer		Great value
Rear Mezzanine Right	K	\$171.00
2 tickets Mobile transfer		Great value
Rear Mezzanine Right	N	\$450.00
1-3 tickets Mobile transfer		Value
Rear Mezzanine Right	N	\$450.00
1 ticket Mobile transfer		Value

STAGE

ORCHESTRA LEFT (ODDS) ORCHESTRA CENTER ORCHESTRA RIGHT (EVENS)

FML FMC FMR

MEZZANINE

MMEZZ RMEZZ

from \$148.84
24 tickets

ticketmaster

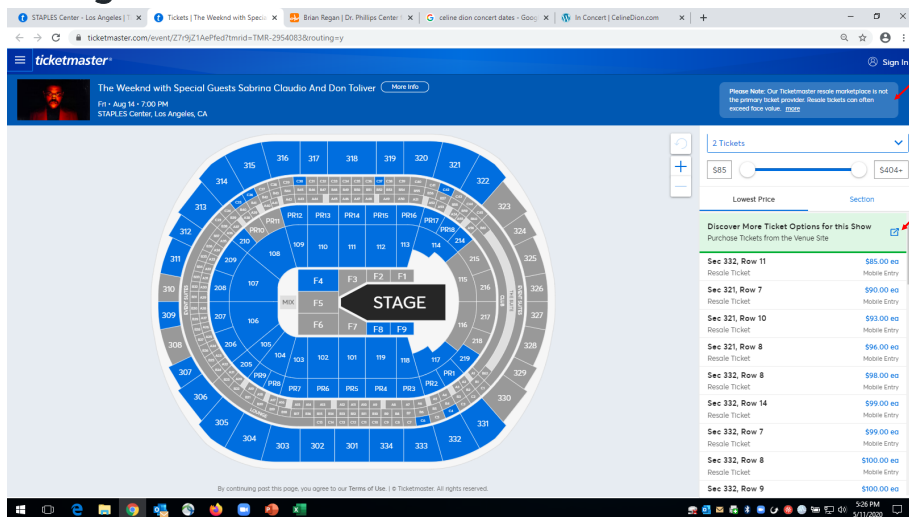
In other cases, certain brokers use products such as TicketFlipping (a subscription-based service for professional resellers available at www.ticketflipping.com) to actively scrape primary and secondary ticketing marketplaces and notify sellers how many tickets are still available for an event, what types of tickets are available, and at what prices. The very fact that professional resellers are willing to pay for this information suggests that this information is extremely valuable, and that it can be used to manipulate ticket prices on the secondary market. Put simply, inventory disclosure does not provide fans with better access to seats; it provides unscrupulous

actors with a roadmap regarding how many seats are available and how they can leverage inventory information to charge higher prices to fans on the secondary market.

6. Your testimony notes that beginning in 2018, Ticketmaster started including links on its site to third party primary ticketing sites for many concerts and theater events where Ticketmaster is not the official ticket marketplace. Why did Ticketmaster start doing this and what percentage of events does this apply to?

As I mentioned in my testimony, these links permit a fan browsing Ticketmaster's concert and theatre ticket inventory to compare prices for secondary tickets listed for sale on Ticketmaster's resale platform with primary tickets listed for sale *even by competitors*. We believe fans should know if they are buying primary or resale tickets and from whom they are buying tickets. It's why we differentiate those tickets on our main pages and why we are clear and link out to third party websites when we are not the primary provider. We are not aware of ANY other marketplace that does either of these things. Ticketmaster encourages other resale ticketing platforms to implement similar procedures to offer fans links to official box offices alongside their resale inventory. The implementation and frequency of this practice has varied over time.

Clicking on "see tickets" links to venue box office link out



t

Ticketmaster confidential. Do not distribute.

4

7. Approximately what percentage of events that your company sells tickets for have tickets that are non-transferrable

- a. Your testimony notes that the vast majority of artists have historically chosen not to restrict transfer and you think that trend is likely to continue. Why is that?

For calendar years 2016, 2017 and 2018, the percentage of tickets sold via Ticketmaster with transfer limitations was 1.8%, 0.8% and 0.2%, respectively. In all cases, we believe it is in the Event Organizer’s sole discretion to determine how tickets are distributed and the rules by which they can be transferred. As stated above, the Event Organizer owns the IP and has taken all costs and risk for the event as a such, if the tickets are non-transferable, we see no reason they should not be able to do so.

To be clear, however, the primary use case for limiting the transferability of tickets is to ensure tickets will be more affordable for consumers. By making tickets non-transferable, Event Organizers and artists can ensure that the person who purchases the ticket is a true fan who plans on attending the event, not someone who is buying for the sole purpose of reselling that ticket, likely at an inflated price. As reference to this point, the GAO Report noted that restricting Event Organizers from limiting the transferability of tickets reduces the “opportunity for consumers to access tickets at lower-face value price.”⁴

As one example, on January 13, 2020, Pearl Jam announced that tickets for its Gigaton tour would be non-transferable. The band made this decision to provide consumers access to their tickets at below-market prices, thereby preventing consumers from paying inflated prices on the resale market. The limitation on transferability of these tickets has been fully disclosed to consumers, with extensive communication to fans throughout the announcement and the sales process on Ticketmaster.

For fans who are ultimately unable to attend the concert, Ticketmaster has developed a first-of-its-kind, Fan-to-Fan Face Value Ticket Exchange (“Exchange”), where fans can sell their tickets for the amount they originally paid (including face value of \$98, a \$5 charitable amount and service charge), to other fans. To eliminate consumer confusion, Ticketmaster also notified major secondary marketplaces and resellers that tickets for this tour are not available for resale.

This technology has accomplished exactly what Pearl Jam was seeking to do. For the ten Pearl Jam shows in states that permit artists to restrict transfer, approximately 18,000 tickets per show were sold at face value, with fewer than 10 resale tickets per show listed on secondary markets. However, in Colorado and New York, the two states that prohibit any limitations on transferability of a ticket, thousands of tickets are available on secondary marketplaces for prices as high as \$7075 per ticket, more than a 7000% increase over intended face value.

We are very proud to have partnered with Pearl Jam on a product that enabled the band to provide fair and easy access to their very best fans, while still giving consumers flexibility in the event they cannot attend. While a decision about transferability is an individual choice that each artist will make, we reiterate that, in our experience, the vast majority of artists have historically chosen not to restrict transfer as any restriction or limitation could impede sales. So to the contrary, the use cases we often see that involve a request for non-transferability are limited to the most highly in demand shows where demand far exceeds supply and where the artist/content owner wants to ensure their true fans get access to tickets at well below market prices.

⁴ *Id.*

8. In the event that your company sells tickets that are deemed non-transferable, what efforts are taken to ensure that consumers and secondary marketplaces are aware that the tickets are non-transferrable to avoid confusion and frustration down the road?
- a. If you make attempts to notify the secondary market that an event has non-transferable tickets, what response do you typically receive? Do you generally still see the secondary marketplaces posting those tickets?

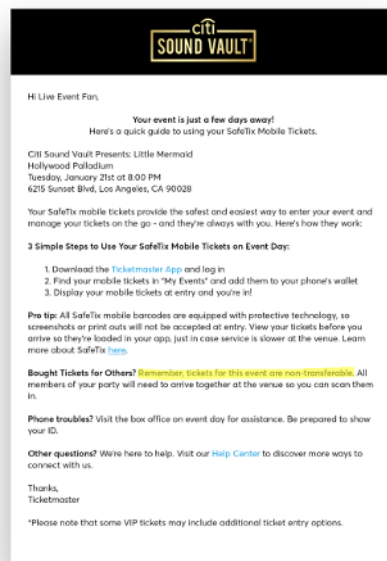
As discussed above, we believe it is in the Event Organizer’s sole discretion to determine how tickets are distributed and the rules by which they can be transferred. If an artist wants to make tickets more affordable for his/her fans by designating their tickets non-transferable, we see no reason they should not be able to do so. However, we also believe that any limitations should be clearly disclosed prior to purchase so consumers have the information needed to make an informed purchasing decision.

On the Ticketmaster marketplace, consumers are informed of the non-transferable nature of tickets on the first page of the transaction process, again before checkout, and in confirmation and event-reminder emails. In addition, if an Event Organizer designates an entire event as non-transferable, we notify other marketplaces via email before the event’s primary on-sale. We typically receive an acknowledgement of the non-transferability of an event, and such other marketplaces generally do not subsequently post tickets for that event.

Non-Transferable Ticket Notification:

Email Confirmation

Prior to their event, fans are sent an email with explicit mobile entry instructions for their show, again highlighting that tickets are non-transferable.

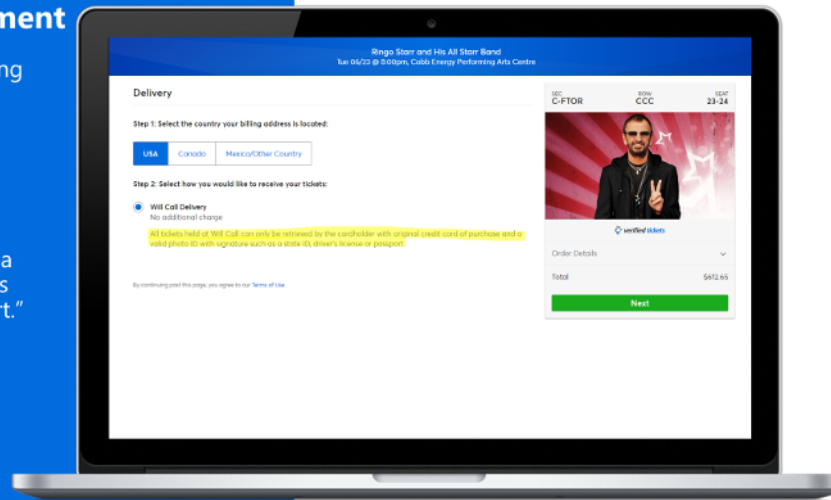


Non-Transferable Ticket Notification: Will Call Delivery Requirement

- Presented on the delivery page during the checkout flow

- **Language:**

“All tickets held at Will Call can only be retrieved by the cardholder with original credit card of purchase and a valid photo ID with signature such as a state ID, driver’s license or passport.”



9. Your testimony notes that Ticketmaster “conducts a thorough process to police the site and remove suspect listings. Can you describe this process?”

a. Approximately how many suspect listings does Ticketmaster find on its site annually?

Ticketmaster has a stringent policy against posting tickets the seller does not actually possess and a thorough process by which we police our site and remove suspect listings. In order to enforce Ticketmaster’s ban on speculative tickets, we’ve implemented a multi-phased approach described below, which resulted in Ticketmaster removing approximately 160,000 tickets in 2019:

- The Ticketmaster system precludes sellers from posting tickets for sale that do not have a barcode when Ticketmaster is the primary ticketer. This means that there can be no speculative listings in the Ticketmaster marketplace for events where Ticketmaster is the primary ticketer.
- In addition, we actively monitor for and input into the Ticketmaster system the public on-sale date for all events on our marketplace, including those where we are not the primary ticketing company. If a posting is attempted on an event before it has gone on sale to the general public, the system will deny the posting. In addition, Ticketmaster employs a full-time employee, dedicated solely to monitoring our site for speculative and other suspicious listing

- If a speculative listing is found, the listing is removed. The person who posted the ticket is automatically notified and asked for proof of ownership for the ticket. If the person can provide proof of ownership, the tickets are reinstated.
- All incidents are logged, and an email file is sent to Ticketmaster's Legal department on a weekly basis, specifying the number of speculative tickets removed.

10. Your testimony notes that although you believe a ban on speculative tickets would best protect consumers, if speculative ticketing continues to be permitted, federal legislation should include requirements for clear and conspicuous disclosure at the beginning of the ticket purchase process.” In your opinion, what requirements are needed?

We believe that an outright ban on speculative tickets is best for consumers. It is deceptive marketing to list a ticket, or any item, for sale when a seller has no legal right to the ticket and no guarantee they will have the ticket in the future. Fans who buy speculative tickets often do not realize they have only purchased the *right* to buy tickets *if* the seller is able to acquire them and may have their “tickets” canceled if the seller cannot deliver or, they may end up with different seats than those the fans believed they had secured.

If speculative ticketing continues to be allowed, requiring clear and conspicuous disclosures can help protect unwitting consumers. These disclosures should include information that (1) the seller does not yet have the tickets in hand and will attempt to purchase the tickets for the consumer, (2) the seller does not have a contract to obtain the offered ticket at a certain price from the person in possession of the ticket (or the person who has a contractual right to obtain the ticket), and (3) there is a risk the tickets may be replaced with another ticket, or may not be delivered at all.

These disclosures should be coupled with a mandatory refund if tickets are not fulfilled, and an option for the consumer to choose a refund if replacement tickets are not to the consumer's liking.