

**Testimony of Kevin Erickson
musician & record producer,
Director of Future of Music Coalition
HB 701**

Good afternoon. I'm Kevin Erickson, and I direct Future of Music Coalition, a nonprofit organization that has for over two decades worked to ensure that musicians have a voice in the policy issues that impact their lives and livelihoods. I appreciate the opportunity to share our views on this important topic.

When the Taylor Swift on-sale disaster happened, it thrust ticketing issues into the national spotlight, but it mostly confirmed what we and other musician organizations been saying for sometime. The current state of ticketing is a dysfunctional mess; it's not working for artists, venues, or fans. The problems are complex, but most are not inevitable, but a product of public policy choices. We believe that better choices at the state and federal level can create better outcomes, and HB 701 represents a massive step forward.

HB 701 HOLDS EVERYONE ACCOUNTABLE

Other witnesses will share the familiar stories of extreme price gouging, fans being sold fraudulent tickets, confusing and deceptive practices on both primary and secondary sales.

Part of the reason that we haven't seen more progress in solving these problems is that historically policy debates have been dominated by Live Nation/Ticketmaster on one side and resale sites, brokers, and groups they fund on the other side. Those two opposing camps have had us locked in a binary analysis, blaming each other for all the problems.

Talking to musicians and the organizations that represent them can help us escape this trap. No one knows more or cares more about protecting fans than musicians, their livelihoods depend on doing what we can to giving fans experience. For us, it's pretty simple— bad behavior is unacceptable from any company. We want to hold all the different stakeholders accountable and this bill does that.

WHAT THE BILL DOES

HB 701 is perhaps the strongest pro-consumer and pro-artist piece of ticketing reform legislation currently under consideration in any state. The bill:

- **Requires all primary and secondary ticket sellers to offer all-in pricing with an itemized list of all charges**

This eliminates unpleasant surprise fees at the end of the transaction but also ensures that consumers see the base price and all fees from the beginning and throughout the transaction. This is the version of all-in pricing that has consensus support within the artist community; it ensures that fees aren't hidden and consumers are fully informed.

- **Limits resale of tickets to original purchase price (including fees and taxes)**

This eliminates the commercial incentive for brokers to buy up as many tickets as they can for high demand events and resell them for many times the original price. This will mean many more eventgoers will be able to purchase tickets at the artist's intended

price; Maryland consumers will pay millions less to third parties that aren't even involved in putting on the event.

- **Limits the fees charged by resale sites to 10%**

This means that resale sites like Stubhub, Seatgeek, Vivid Seats etc can continue to operate, but they can't profit from massive markups or outrageously high fees anymore for Maryland events.

- **Requires transferability for most tickets made available to the general public**

Resale restrictions are currently employed most frequently by venues/artists/presenters to try and ensure that fans are able to pay the intended price instead of having to pay inflated prices on the secondary market. Because other parts of the bill solve those problems, most transferability restrictions are no longer necessary.

The bill allows for reasonable restrictions; for example, a symphony orchestra that has a grant funded program for discounted tickets made available just for students would be able to ensure that these discounted tickets stay with the targeted population.

- **Bans speculative tickets**

Speculative tickets are one of the most nakedly predatory and deceptive practices in live event ticketing; they're hated by artists, fans, venues, and promoters. Speculative tickets happen when predatory resellers list and sell tickets they don't actually possess, banking on their ability to use technological tools and aggressive tactics to get tickets before actual fans and sell them, typically at a substantial markup. They also degrade the ticket buying experience for ordinary fans. This can result in frustrated fans getting stuck outside venues when their promised tickets aren't delivered; while they may eventually get a refund, this is no consolation, particularly if they traveled for an event.

Maryland is one of a handful of states that currently requires *disclosure* of speculative tickets, but this has proven inadequate. A complete ban would solve the problem once and for all.

- **Requires resellers to share ticketbuyers' contact information with resale ticket purchasers in case of cancellation or schedule change**

This ensures that venues/artists/teams/presenters can contact all ticketbuyers, something they've long wanted to do for safety/logistical/weather reasons. Currently, venues/artists/presenters only have contact info for buyers who purchased their tickets on the primary market.

HOW DOES THIS LEGISLATION INTERSECT WITH MONOPOLY CONCERNS?

It's helpful to think of the effort to "fix ticketing" as consisting of two distinct "buckets" , which add up to a complementary and holistic public policy approach. The first bucket is about *structural* issues, which helps you understand the harms that follow from consolidated ownership—the factors that DOJ is understood to be investigating with TM/LNE, the factors that led UK regulators to require divestments when Viagogo & Stubhub merged.

The second bucket is market regulation, which is concerned with rules of the road that apply to every firm; it's a means of addressing potentially bad practices and behavioral concerns by anyone in the field.

It's these two buckets together that add up to sound policy that protects fans, workers, small businesses, and diverse creative expression. Strong antitrust enforcement—ideally a DOJ complaint that leads to structural separation of Live Nation's different lines of business—has to be accompanied by clear bright line market regulation for primary and secondary markets—banning fake tickets and deceptive marketing, mandating up-front pricing with clear and conspicuous itemization, etc.

It makes sense that while DOJ is focused on a TM/LNE investigation, legislative approaches focus on addressing that second “market regulation” bucket—which DOJ can't do. Either “bucket” on its own would be insufficient to address the range of problems. We need a breakup and we need a good market regulation.

WHY IS THIS SO CONFUSING?

Some of the confusion around ticketing policy is a result of different coalitions forming around these two “buckets.” Some artist groups agree with some secondary ticketing platforms that Live Nation/Ticketmaster should be broken up. But various parties might have very different visions of what specific structural remedies might be appropriate.

Similarly, artist groups might agree with Live Nation that brokers, bots, and secondary platforms create serious problems and need to be regulated. But we might ultimately disagree about a fundamental vision of the healthier marketplace we want to see emerge.

At least four artist organizations that have called for Ticketmaster be broken up are also supporting this bill. We encourage you to reference our US senate testimony from January 2023 which delves more deeply into these issues.

WHAT TO LISTEN FOR FROM OPPOSITION

If you hear groups talk about “ticketbuyers rights” - we encourage you to always ask if they're describing a fan who bought a ticket because they want to go to the show, or a broker who bought a ticket because they want to resell it for profit. Those two individual's interests are not aligned and shouldn't be conflated. Brokers aren't even consumers, they're at best “entrepreneurs” whose business is about trying to get in between musicians and fans to siphon revenue away from music communities, so fans pay more and artists earn less.

If you hear secondary platforms and groups they fund suggest that a particular bill provision “helps Ticketmaster,” look into whether it actually just makes it harder for brokers to maximize their profits. Remember Ticketmaster has been reselling other venues' tickets as well as their own inventory at massive markups; this is a core way that Ticketmaster sustains its market power, and this bill attacks that directly.

You may hear people say that this bill will shut down legitimate resale. Ask whether it just forces them to adopt less exploitative business models. There's ethical resale platforms that already operate within these parameters—face value, only 10% fees. No one gets stuck with a ticket they can't use, but no one gets ripped off.