

November 30, 2022

[ VIA E-MAIL ]

Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
antitrust@ftc.gov

RE: Ticketmaster/Live Nation – Consumer Protection and Request for thorough investigation

To Whom It May Concern:

Vigilante Legal is dedicated to rallying the public to support our policy goals through civic engagement and direct action. We are made up of a team of dedicated lawyers, activists, regulators, scholars, and journalists who intend to create lasting change. For us, that starts with you.

We are writing to you today in regard to false claims, misinformation, misleading statements, and predatory practices conducted by Ticketmaster/LiveNation (“Ticketmaster”) in relation to and directly involving a ticket presale that occurred on November 15, 2022 at 10:00 AM stadium local time for the upcoming tour: Taylor Swift: The Eras Tour (“Tour”).

Having individuals who work in regulatory on staff, we are genuinely shocked at the absence of protection for consumers.

Ticketmaster holds a monopoly over the ticket sales business in the United States allowing for predatory practices and misleading claims to go relatively unchecked. This leaves consumers trapped by a service that does not accurately represent their services – if they want to attend concerts, or other events. Ticketmaster has held reign over the industry for years, but the events that took place on, and leading up to, November 15, 2022 were egregious, leading to public outrage.

Throughout the last two (2) weeks, Vigilante Legal has been collecting data from consumers who participated in the presale, whether they were able to procure tickets or not, to assess Ticketmaster's actions, inaction, and statements throughout the sale process. The thousands of pieces of evidence collected included video and screenshots containing an array of different information. One thing remained clear throughout: consumers were misled.

## I. MISINFORMATION AND MISLEADING CLAIMS

Prior to the presale, Ticketmaster announced that the Tour would be utilizing the Verified Fan Program. For the Verified Fan Program, Ticketmaster "collaborate[s] with artists, teams, and event organizers who want to leverage [their] technology to create a safe and reliable ticket-buying experience for their fans. Verified Fan doesn't guarantee that everyone who is verified will get a ticket, but it does level the playing field so that more tickets go to fans who intend to go to the show—and not to ticket bots.<sup>1</sup>" While many fans were initially disappointed that this program was being utilized for Tour ticket sales, the overall consensus seemed to be that things would be alright, given the next two promises from Ticketmaster prior to sale.

First, Ticketmaster posted on their blog stating that those who had purchased "Lover Fest"<sup>2</sup> tickets would have preferred access to participate in the presale. *See Exhibit 1 at 6.* In fact, these statements are still live on their blog located at: [blog.ticketmaster.com/taylor-swift-the-eras-tour-2023](https://blog.ticketmaster.com/taylor-swift-the-eras-tour-2023). Per Ticketmaster's statements, all fans had to do was ensure that the email they'd used to purchase Lover Fest tickets and the email they used to sign up for Verified Fan were the same. *Id.* This gave fans hope that, at the very least, Lover Fest ticketholders would be able to procure tickets to the Tour.

Second, Ticketmaster, in conjunction with Taylor Nation/Universal Music Group ("Taylor Nation"), informed select fans that their place in line was going to be boosted during the presale. Per the email, all individuals had to do was ensure that their Ticketmaster account and Taylor Swift

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<sup>1</sup> <https://blog.ticketmaster.com/verifiedfan-faq/>

<sup>2</sup> Lover Fest was Taylor Swift's tour that was supposed to take place in the summer of 2020 to support the release of her 7<sup>th</sup> studio album, *Lover*. This tour was cancelled due to the COVID-19 pandemic and all ticketholders were refunded. Most ticketholders held out hope for nearly two years before the cancellation forced them to receive refunds.

account were the same email. **Exhibit 2 at 2-3.** Again, consumers felt protected in knowing that their place in line for tickets would be boosted – likely because they’d purchased merchandise, singles, or albums off Taylor Swift’s website.

Despite these statements, many fans that had Lover Fest tickets did not receive presale codes at all. Accounts that had been given boosts also never received their codes leading to panic on social media the night before the presale went live. Some of these fans had been selected for Verified Fan presale, while many did not. There was seemingly no rhyme or reason as to why a fan was selected or not – even though Ticketmaster had made these statements. The data we’ve collected has shown that many who had been fans of Taylor Swift for years, had purchased music, concert tickets, merch, and the like all with their Ticketmaster emails, had not been selected for Verified Fan, while people who had signed up simply to help their friends and were never fans at all *were* selected.

While we understand that sometimes concerts sell out, fans with Lover Fest preferred access and Taylor Nation boosts were left sitting in waiting rooms for hours on end (on average, about 6-7 hours), only to be pushed behind tens of thousands of people repeatedly. Accounts that did not receive boosts from Taylor Nation, or had not ever held Lover Fest tickets, were boosting through the line significantly faster than those who did and were able to procure tickets.

These actions are in direct contradiction to the statements put out by Ticketmaster. These actions left misinformed, frustrated, and mentally exhausted consumers feeling pressured and tricked – all without any clarity on the product they were buying.

When contacted by disappointed fans who held Lover Fest tickets but never received Verified Fan presale codes, access, or tickets, Ticketmaster Fan Support completely changed their tune, telling the fan, “You will not have priority for the new presale. I am sorry for the misinformation you have received.” **Exhibit 3.**<sup>3</sup> When provided with Ticketmaster’s own statement to the contrary, no response was received. *Id.*

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<sup>3</sup> Page 1 is the original tweet. Pages 2 and 3 are the attachments to user @shurider17’s second tweet.

Ticketmaster immediately jumped to blaming everyone but themselves. First, they blamed Taylor Swift's unprecedented demand that they could not have predicted. This statement is undoubtedly false as Ticketmaster had direct control over seeing how many fans signed up for presale. Ticketmaster also witnessed Taylor Swift break record after record with her tenth studio album, *Midnights*. Ticketmaster knew. Ticketmaster did not prepare and instead misled consumers to their own benefit.

If these issues hadn't been enough to cause outrage among fans who felt undoubtedly lied to, by the time many of these "boosted" fans were able to access the presale, all that remained were the most expensive VIP tickets. Even at this higher price point, tickets were being sold from within fans' carts forcing people into impulsive decisions.

## II. PREDATORY PRACTICES

VIP packages have always been an aspect of the fan experience, especially in relation to tour. Taylor Swift has always kept her VIP packages at reasonable prices, and the same was true for this Tour – the cheapest VIP packages ranging from just under \$400 to a high of \$899. The existence of these packages are not the problem. The problem sprouts from the fact that the details of these packages were not disclosed to consumers until they were inside the virtual "stadium" attempting to select their tickets.

One story we have received shows that this problem was not isolated to those who had issues getting into the presale. One individual was able to get into the Gillette Stadium presale relatively quickly within minutes of it hitting 10 AM Eastern. She selected a ticket in the lower bowl, quickly moved through the process, and secured the seat rather quickly. It was not until *after* she received her receipt saying she'd gotten the tickets, that she even realized she had purchased a VIP ticket. The seat purchased without VIP would have cost approximately \$150. Instead, the individual spent about \$380. It was impossible to ascertain the distinction between VIP and non-VIP when trying to move quickly through a presale being deemed "unprecedented."

This story was rare. Majority of fans were stuck in hours long lines, and by the time they entered the virtual stadiums, all that remained were these high-priced VIP tickets. Exhausted from

long lines, worried about ticket availability as overpriced tickets popped up on StubHub, confused at Ticketmaster's responses, and having sat through literal paused lines while countless bots got through to purchase tickets, hundreds of thousands of consumers felt cornered into making split second decisions about purchases they did not understand.

VIP packages, on average, marked seats up between \$200 to \$400 on top of the price of a seat. In many cases, these VIP package seats were significantly more expensive for objectively "worse" seats. For example, one fan paid a total of \$725 per ticket for mid-bowl VIP seats, while she only paid \$313 per ticket for floor seats in the very front section at another show. For the most part, fans did not even know what they were buying, often only reading up on the VIP packages *after* purchasing. Aside from the two top tier VIP packages where there are slightly better perks, many fans felt taken advantage of after realizing their seats were marked up by \$200-400 for a pin, four photo prints of Taylor, a tote bag, and some stationary. The two top tier VIP packages also included early access to the venue and a dedicated merch lane – which some fans still felt did not justify the markup.

Consumers were not able to make informed decisions beforehand, had no time to review those decisions during the sale, and were left with no choice but to consent to it in real time or risk missing out on Taylor Swift's first tour in five years. Ticketmaster knew that there was going to be a frenzy on November 15, 2022 and did absolutely nothing to prevent this, or help consumers get adequately informed prior to the sale. Ticketmaster knew that Taylor Swift's most dedicated fans would buy these tickets, no matter the cost. Ticketmaster seemingly prayed on the love *Swifties* have for Taylor.

For those who were able to get into the virtual stadiums, many have reported watching the standard seats being converted into VIP seats in real time. A seat that a fan had selected and placed in their cart immediately switched to VIP when they went to pay, another fan tried to select a standard seat and watched it swap to VIP before it could be clicked. To swap tickets from standard to VIP while hundreds of thousands of fans are fighting to get tickets at all is predatory, especially when individuals do not have time to really ascertain what it is they're buying.

### III. AMERICANS WITH DISABILITIES ACT VIOLATIONS

There are numerous accounts of consumer confusion and deception because of Ticketmaster’s deceptive practices which also appear to violate the Americans with Disabilities Act<sup>4</sup> (the “ADA”), including but not limited to (1) failing to disclose accessible seats; (2) potentially charging consumers more for accessible seating; and (3) failing to adhere to its own express policies to provide accessible seats to consumers with disabilities. These practices have been detrimental to consumers with disabilities by restricting equal access to its concerts and potentially exposing these consumers to scams and price gouging. The following addresses these issues in turn.

#### A. Ticketmaster fails to disclose accessible seating for consumers with disabilities.

Consumers that need accessible seating were unable to locate necessary accessible seats to purchase them during the presale.<sup>5</sup> This is in direct contravention to the ADA.<sup>6</sup> Because of Ticketmaster’s deceptive practices, people who did not need these accessible seats inadvertently purchased them—leaving nothing for those consumers with disabilities. Consumers have taken to rectify this issue themselves by creating a thread on Twitter where ticketholders of accessible seats are trying to connect with consumers with disabilities to sell or exchange seats. While admirable, this practice exposes consumers to scams by bad actors who may try to sell nonexistent tickets to consumers with disabilities or those who may purchase tickets for accessible seats to only resell them on the resale market at an exorbitant price.

#### B. Ticketmaster’s failure to disclose accessible seating may have lead consumers with disabilities to pay more for their tickets.

Because it was not clear which seats in each venue were accessible, many consumers with disabilities attempted to purchase aisle seats,

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<sup>4</sup> The ADA prohibits discrimination against people with disabilities in several areas, including activities of public accommodations, which are considered to be businesses including private entities that are open to the public or that provide goods or services to the public. 42 U.S.C. §§ 12101 *et seq.*

<sup>5</sup> <https://www.cbsnews.com/boston/news/taylor-swift-handicap-accessible-tickets-not-available-ticketmaster-presale/>

<sup>6</sup> U.S. Dept. of Just., Civ. Rts. Div., ADA Requirements: Ticket Sales (2020).

which were marked up at a higher price during the presale. Moreover, (and despite Ticketmaster’s claims that this would not occur) bad actors who purchased accessible seats (and non-accessible seats alike) through Ticketmaster are now reselling these tickets for thousands of dollars on the ticket resell market, including StubHub, VividSeats, and SeatGeek. Ticketmaster has a history of these practices on its own resell market as well.<sup>7</sup>

**C. Ticketmaster fails to adhere to its only policies to provide access to consumers with disabilities.** According to its own policies,<sup>8</sup> a person needing accessible seating may purchase any non-accessible seat in the venue and exchange it for an accessible seat through Ticketmaster. Consumers with disabilities purchased non-accessible seats after they were unable to locate or purchase accessible seating through the presale. Then when they contacted Ticketmaster to exchange their tickets for accessible seating, Ticketmaster told these consumers that they could not exchange the tickets, and nothing could be done. As the tickets are “NON-REFUNDABLE,” these consumers have now wasted hundreds, if not thousands of dollars, on tickets that they are physically unable to use.

And these are not Ticketmaster’s only transgressions. In fact, thousands of consumers have flooded social media websites with accounts of direct misrepresentations by Ticketmaster’s support team and other egregiously predatory practices—resulting in “Bad Blood” between it and both fans and artists alike.

#### **IV. CONCLUSION AND REQUEST FOR ACTION**

This event has highlighted the fact that Ticketmaster’s merger with Live Nation is not working as intended. In a competitive market, consumers have the option to switch brands, products, or services if they are unsatisfied with certain business practices. Under this circumstance, consumers and artists alike are effectively deprived of any market choice to

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<sup>7</sup> <https://www.whas11.com/article/news/local/ada-ticket-issues-at-louisville-venues-wheelchair-accessible/417-c96e4d12-6d8c-4793-b0fc-8a1462f787da>.

<sup>8</sup> [https://help.ticketmaster.com/s/article/Can-I-buy-accessible-seats-on-an-interactive-seat-map?language=en\\_US](https://help.ticketmaster.com/s/article/Can-I-buy-accessible-seats-on-an-interactive-seat-map?language=en_US);  
[https://help.ticketmaster.com/s/article/How-do-I-request-accessible-tickets?language=en\\_US](https://help.ticketmaster.com/s/article/How-do-I-request-accessible-tickets?language=en_US);  
[https://help.ticketmaster.com/s/article/Can-I-buy-tickets-for-accessible-seats-if-I-m-not-disabled?language=en\\_US](https://help.ticketmaster.com/s/article/Can-I-buy-tickets-for-accessible-seats-if-I-m-not-disabled?language=en_US).

participate in live music and entertainment. Ticketmaster has no market-based reason to treat its customers fairly and it is abundantly clear it will continue to take advantage of consumers without legal intervention. Therefore, we urge you to investigate Ticketmaster's stronghold on the entertainment industry through its merger with Live Nation and its deceptive acts or practices as it relates to commerce and protecting consumers.

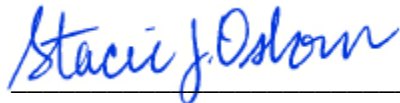
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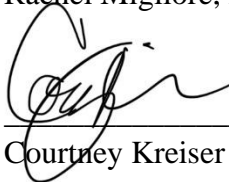
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