

January 31, 2020

The Honorable Frank Pallone, Jr. Chairman House Committee on Energy and Commerce U.S. House of Representatives 2125 Rayburn House Office Building Washington, D.C. 20515

The Honorable Diana DeGette Chair Subcommittee on Oversight and Investigations U.S. House of Representatives 2125 Rayburn House Office Building Washington, D.C. 20515

The Honorable Jan Schakowsky
Chair
Subcommittee on Consumer Protection and
Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Greg Walden Ranking Member House Committee on Energy and Commerce U.S. House of Representatives 2322 Rayburn House Office Building Washington, D.C. 20515

The Honorable Brett Guthrie Ranking Member Subcommittee on Oversight and Investigations U.S. House of Representatives 2322 Rayburn House Office Building Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
Subcommittee on Consumer Protection and
Commerce
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

Re: Second Response to November 21, 2019 Letter

Dear Chairman Pallone, Ranking Member Walden, Chair DeGette, Ranking Member Guthrie, Chair Schakowsky, and Ranking Member McMorris Rodgers:

This letter comprises the second voluntary response of Anschutz Entertainment Group, Inc. ("AEG" or "the Company") to your letter dated November 21, 2019 ("the Committee Letter"). This second response supplements the Company's first response dated December 12, 2019 ("First Response"). For the Committee's convenience, AEG has reproduced herein the responses previously provided in its First Response. The Company reiterates its commitment to cooperating with your inquiry, and we look forward to continuing our dialogue regarding the information you requested.

As the Company explained in its First Response in more detail, and incorporated here by reference, AEG is a privately-held company that operates across a number of segments within the sports and live entertainment industry. AXS Group LLC ("AXS") is a wholly-owned subsidiary of AEG. AXS provides ticketing technology, systems, and services for both primary and resale/secondary ticket marketplaces, and is the ticketing partner for over 300 premier venues, sports teams, and event organizers around the world.

AEG's live-entertainment division is AEG Presents, which promotes concerts and tours as well as owns and operates live music clubs, theaters, and festivals. AEG, through AEG Presents, owns a majority interest in Elevate Tickets, LLC ("Elevate"), a ticketing technology enterprise that specializes in providing a web based primary ticketing platform solution to music festival owners, operators, and producers. Elevate differs from AXS and other traditional ticketing companies in that Elevate does not operate as a consumer-facing brand or marketplace, rather Elevate's technology is incorporated into its client's unique, customer-facing, event-branded website for the supported music festival. As used herein, the term "ticketing platforms" refers to AXS and Elevate, collectively.

The Company's First Response provided responses to requests 4, 4(a)-(b), 5, 5(a)-(c), 6, 9(a), 9(c), 10(b), 11, 11(a)-(d), 12, and 12(a)-(c). This letter provides responses to requests 1, 2, 7, 9, 9(b), 10, 10(c)-(d), 13, and 14, and supplemental responses to requests 4, 4(a)-(b), 5, 5(a)-(c), 6, 9(a), 9(c), 11, 11(a)-(d), 12, and 12(a)-(c). While AXS and Elevate have numerous third-party clients, AEG and its subsidiaries are also clients of AXS and Elevate. For example, AXS provides ticketing services for a number of venues that are owned or operated by AEG Real Estate or AEG Presents and for professional sports teams and other sports events that are owned by AEG Sports. In addition, AXS and Elevate provide ticketing services for live music events and festivals that are owned, operated, or promoted by AEG Presents. As such, the Company is providing in this letter responses that are generally informed by the perspective of AEG and its subsidiaries in their capacities as ticketing clients of AXS and Elevate (collectively, "AEG Clients").



Question 2. What fees does your company charge per ticket sale, and how are those fees calculated? Please provide a copy of any policies related to how your company sets and calculates fees.

#### Response:

Consumers purchasing tickets on the primary ticketing market to events that are: (i) ticketed through AXS or Elevate; (ii) owned or promoted by AEG Clients; or (iii) otherwise hosted at AEG Clients' venues are customarily charged a ticketing fee (sometimes referred to as a "convenience fee," "service fee," "processing fee," or other similarly-named fee) which is assessed on either a per-ticket or per-order basis. If a consumer wishes to receive their tickets by mail, a per-order delivery or

shipping fee may also be charged. Typically, electronic delivery of tickets is free to consumers. Ticket fees charged to the consumer are determined on a sliding scale typically based on the face value of the ticket and are set by clients (i.e., the venues, teams, promoters, or event owners) in collaboration with the ticketing partner (e.g., AXS or Elevate when they are the ticketing partner) after reviewing a number of factors, such as market rates at comparable venues or events, rebate amounts owed to the promoter under the applicable event agreement, and potential price resistance thresholds as the fee schedules increase with ticket prices.

In the secondary market for event tickets facilitated by the AXS secondary marketplace, customers utilizing such secondary marketplace to sell or purchase tickets are assessed a ticket fee (typically, a "buyer fee" or "seller fee," as applicable). The ticket fees charged to the buyer and seller are generally calculated as a percentage of the price of the tickets for which the seller posts and sells the ticket. All such fees are set by the venue, team, promoter, and the event owner in collaboration with the ticketing platform, taking into account current prevailing market rates.

AEG and its subsidiaries do not maintain written policies regarding setting or calculating primary market or secondary market ticket sales fees.

Question 4. At what point during the purchase process does your company make the consumer aware of the type and amount of ancillary fees charged?

# Response from December 12 Letter:

The type and amount of ancillary fees charged to consumers are disclosed by AXS when the tickets are selected (i.e., put into a "shopping cart") for purchase. After a consumer selects a seat they would like for a show, the consumer proceeds to a price confirmation page. On that price confirmation page, the all-inclusive cost of the ticket is listed, along with a breakdown of all components of the price (e.g., face value of the ticket, fees, and any taxes). This information is available whether consumers are purchasing via the internet, mobile web, or a mobile application.

### Supplemental Response:

The type and amount of ancillary fees charged to consumers are disclosed by Elevate when the tickets are selected (i.e., put into a "shopping cart") for purchase. On the price confirmation page, the all-inclusive cost of the ticket is listed, along with a breakdown of all components of the price (e.g., face value of the ticket, fees, and any taxes). An example of a ticket fee disclosure for Elevate is included in the Appendix to Response to Question 4, attached hereto.

Question 4 a. Where and how is this information communicated to consumers?

Response from December 12 Letter:

Please refer to Response to Question 4, above.

Supplemental Response:

Please refer to Response to Question 4, above, and the Appendix to Response to Question 4, attached hereto, which provides an example of an Elevate disclosure.

Question 4 b. Since January 1, 2016, has any federal, state, or local entity or individual taken legal action against your company regarding the lack of "all-in" pricing? If so, please provide a list of such actions, the claim alleged in each action, and, if applicable, the results of any such action.

Response from December 12 Letter:

No, AEG and AXS are not aware of any such action.

Supplemental Response:

Elevate is also not aware of any such action.

Question 5. Regarding ticket refunds, in what instances does your company provide consumers with a refund for the total cost of the ticket, including any ancillary fees?

Response from December 12 Letter:

AXS provides ticket refunds for the total cost of the ticket, including any ancillary fees, when an event is cancelled, for both primary and resale market tickets.

Supplemental Response:

Elevate defers to its clients regarding the circumstances in which to offer a refund. Historically, Elevate has offered a refund in every instance in which an event was cancelled in its entirety. In the case where AEG Presents or another AEG Client is the ticketing client, the AEG Client works with AXS or Elevate to provide ticket refunds for the total cost of the ticket, including any ancillary fees, when an event is cancelled. Additionally, if an event is postponed, the AEG Client will honor the same ticket for the rescheduled date. Requests for refunds upon rescheduling are evaluated on a case-by-case basis. In addition, ticket refunds may sometimes be provided as a customer service matter when circumstances of a customer's experience warrant such a refund, as evaluated on a case-by-case basis.

Question 5 a. Does your company provide consumers with a refund for the total cost of a speculative ticket?

Response from December 12 Letter:

AXS does not sell speculative tickets.

Supplemental Response:

The Company does not sell speculative tickets, including for any events where an AEG Client is the ticketing client or where AXS or Elevate is the ticketing platform. Because the Company does not sell such speculative tickets, a consumer who purchased a speculative ticket would need to seek a refund from the third party from whom the consumer purchased the ticket if and when that purchase was not fulfilled.

Question 5 b. Is your company's refund policy disclosed to the consumer during the transaction process? If yes, please explain what information is provided to consumers, how your company discloses this information to consumers, and at what point in the purchasing process this information is disclosed.

# Response from December 12 Letter:

Yes, AXS's refund policy is disclosed to the consumer by AXS's ticketing platforms during the transaction process. Prior to purchasing any ticket, the consumer is presented with the cost and a statement that by purchasing the ticket, the consumer agrees to the Purchase Agreement, which is provided to consumers and available at <a href="https://www.axs.com/about-purchase-agreement\_US\_v1.html">https://www.axs.com/about-purchase-agreement\_US\_v1.html</a>. Additionally, the refund policy is available in the AXS Help Center at <a href="https://support.axs.com/hc/en-us/sections/200173115-Cancelled-Postponed-Relocated-Events">https://support.axs.com/hc/en-us/sections/200173115-Cancelled-Postponed-Relocated-Events</a>.

### Supplemental Response:

Yes, Elevate's refund policy is disclosed to the consumer by Elevate's ticketing platforms during the transaction process. Prior to purchasing any ticket, the consumer is presented with the cost and a statement that by purchasing the ticket, the consumer agrees to the Purchase Terms, which are provided to consumers and available at <a href="https://www.elevatetickets.com/purchaseterms.html">https://www.elevatetickets.com/purchaseterms.html</a>.

In the case where AEG Presents or another AEG Client is the ticketing client for a given venue or event, any additional or different refund terms imposed by such AEG Client are communicated to consumers through the applicable ticketing platform during the transaction process.

Question 5 c. Please provide a copy of all policies related to ticket refunds.

### Response from December 12 Letter:

Copies of ticket refund-related policies and related disclosures to consumers with respect to primary market and resale ticket transactions tickets sold via AXS are

available in the Purchase Agreement, <a href="https://www.axs.com/aboutpurchase-agreement\_US\_v1.html">https://www.axs.com/aboutpurchase-agreement\_US\_v1.html</a>, and the Help Center, <a href="https://support.axs.com/hc/en-us/sections/200173115-Cancelled-Postponed-RelocatedEvents">https://support.axs.com/hc/en-us/sections/200173115-Cancelled-Postponed-RelocatedEvents</a>.

# Supplemental Response:

Copies of ticket refund-related policies and related disclosures to consumers with respect to AEG Clients' tickets sold via ticketing partners are available on the ticketing partners' website(s). Elevate's refund policy is available in its Purchase Terms, https://www.elevatetickets.com/purchaseterms.html.

Question 6. Does your company sell ticket insurance, or contract with or otherwise permit a third-party to sell ticket insurance on your platform or website? If so, please explain the ticket insurance that your company offers, including whether the ticket insurance is a set price or calculated based on the cost of the ticket, and what the ticket insurance covers.

### Response from December 12 Letter:

AXS offers ticket insurance on AXS.com for both primary market and resale ticket transactions through a third-party company for many events. Insurance costs vary, and are influenced by factors such as the price of the ticket and the number of tickets purchased. Ticket insurance provides coverage (i.e., a refund of the price paid) in the event that a consumer cannot attend an event for which they purchased tickets due to specified reasons such as illness, sudden medical emergencies, death of a family member or companion, accident, or mechanical issue en route to the event, or another covered event. Anyone who purchases ticket insurance has access to the terms, including what is considered a "covered event," prior to purchase.

## Supplemental Response:

Elevate offers ticket insurance at checkout on its website. The insurance is underwritten by a third-party insurer that handles all aspects of the underwriting and claims processing. The price of the insurance can be either a flat amount or a percentage of the total ticket cost, depending on the type and the price of the ticket. The insurance policy provides reimbursement for non-refundable ticket payments and deposits if the consumer cannot attend due to a covered illness, death, or other unforeseen circumstances. An example of an Elevate disclosure regarding ticket insurance is included in the Appendix to Response to Question 6, attached hereto.

Question 7. How does your company determine the number of tickets that will be sold or distributed for any given event that are 1) presales; 2) holds; 3) general sales; and 4) other categories of sales to the extent not already covered?

#### Response:

Neither AXS nor Elevate determine ticket inventory availability for a given event, including the number of tickets that will be sold in categories such as presales, general sales, other categories, or tickets that will be held for later sales. The client or, more specifically, the venue, promoter, team, or artist, make those determinations, as they are ultimately responsible for the success of the event and bear the financial risk.

Determinations by ticketing clients, including AEG Clients, regarding what number of event tickets will be held or distributed as presales, holds, or general sales for any given event are made on a case-by-case basis (depending on the event, artist/team, promoter, venue, market, and production elements) and are influenced by a number of factors, including overall venue seating configuration for the event, including tickets reserved for ADA/companion seating, tickets contractually committed to premium seat holders (e.g., suites and club seats) and sponsors, potential production kills (e.g., seats obstructed by staging), ticket holds for artists (headliner and support) and their fan clubs, promoter holds for in-house sales, tickets held back for potential marketing use, and holds for dynamically-priced tickets.

Tickets that are previously included in holds and/or presales that remain unsold or are otherwise not distributed are typically released as general sales prior to the commencement of the event.

Question 9. Does your company disclose the total number of tickets available to the general public? If yes, when and how is this information conveyed to consumers?

### Response:

AXS, Elevate, and AEG Clients do not disclose the total number of tickets available to the general public. The number of tickets available at any one time can vary significantly from one moment to the next, as consumers (or, simultaneously, thousands of BOTs) can place tickets in their shopping cart, making tickets temporarily unavailable, only to be released seconds later. However, for events where a seating map is available, the map will display the total number of seats for which tickets are available at the time that a consumer is viewing the map.

Question 9 a. Does your company disclose the total number of tickets sold in presale? If yes, when and how is this information conveyed to consumers?

### Response from December 12 Letter:

AXS does not disclose to the public the number of tickets sold in a presale. However, for concerts where a seating map is available, the map will display the total number of seats for which tickets are available at the time that a consumer is viewing the map. AXS discloses when presales are available to consumers via advertising, email announcements, and social media.

### Supplemental Response:

Elevate and AEG Clients do not disclose to the public the number of tickets sold in a presale.

Question 9 b. Does your company disclose to the public the number of tickets held back by an artist, venue, promoter, or other entity? If yes, when and how is this information conveyed to consumers?

## Response:

AXS, Elevate, and AEG Clients do not disclose the total number of tickets held back by an artist, venue, promoter, or other entity.

Question 9 c. Do tickets put on "hold" for an artist, venue, promoter, or other entity ever get released to the general public for purchase? If yes, when and how are consumers informed of the availability of these tickets?

# Response from December 12 Letter:

Yes, tickets put on "hold" often get released to the general public for purchase. Consumers may be informed by AXS or its ticketing partners, via advertising, emails or other communications (e.g., via social media) when additional tickets are released.

### Supplemental Response:

Yes, tickets put on "hold" often get released to the general public for purchase. As noted above, AXS's and Elevate's clients (along with artists or other content owners) determine ticket availability and timing of ticket availability for primary sales of event tickets. After the initial presale (if applicable) and after the initial public onsale, additional tickets that were initially in a "hold" status may become available as determined by the ticketing clients (along with artists or other content owners) in their sole discretion, and additional show dates may be added in response to demand for tickets. When AXS and Elevate are informed of such occurrence, the ticketing platforms update their systems accordingly and may also assist clients, including AEG Clients, in sending email announcements to interested consumers.

Question 10. Does your company sell tickets with limits on the transferability or resell limitations of tickets, including limits on the mechanisms or platforms by which a ticket may be transferred? If yes, please describe such limitations in detail and the reasons for such limitations.

#### Response:

AXS and Elevate provide clients with technology that allows them to place limitations on the transfer or resale of tickets in order to provide clients with the opportunity to control the distribution of tickets to their fans in the manner they deem desirable. AXS and Elevate apply such transfer or distribution restrictions at the direction of their ticketing clients.

AEG Clients as a general rule do not instruct ticketing platforms, including AXS or Elevate, to impose limits on transferability or resale because AEG Clients believe that customers generally prefer to have the option to sell and transfer tickets as they choose. AEG Clients do, however, require ticketing platforms to impose transferability and resale restrictions in limited circumstances such as when an artist or promoter requests or requires such restrictions be put in place for an event or when low (or no) cost ticket inventory is sold or distributed in the primary market where allowing transferability would undermine efforts to sell seats in a venue or for an event at market prices.

An artist may require that the promoter and the venue (including an AEG Client) instruct AXS or Elevate to restrict resale so that the artist can ensure that their fans are not disadvantaged by ticket brokers who buy a large number of tickets during the first minutes of an onsale (often with the use of illegal BOTs). Additionally, artists do not always want to price their tickets at the face value that the market will bear, but rather artists prefer to set their own, lower, price. In these cases, restricting transfer or resale increases the likelihood that true fans buy the tickets, not those wishing to turn a quick profit. In AXS's and Elevate's experience, artists and venues often employ transfer controls when they want to help ensure that real fans have a chance to get a range of seats at face value.

Question 10 b. At what point in the ticket purchasing process are consumers informed that tickets cannot be transferred or resold? Please explain where and how this information is communicated to the consumer.

### Response from December 12 Letter:

When transferability or resale is restricted for a particular event (as requested by the artist), the consumer is notified of any such restrictions during the purchase process, either within the purchase flow or in a pop-up message available within the flow.

Question 10 c. To the extent that a transfer or resale is done using technology used, owned, or operated by your company, what information about the consumer and the transfer is collected; for what purposes is such information used; is the information shared with third parties and, if so, for what purpose; and how is the consumer informed of such information practices?

### Response:

With respect to transfer of tickets utilizing AXS and Elevate technology and resale using the AXS secondary technology, the ticketing platforms collect an email address from transferees of tickets and information necessary to complete a purchase (e.g., name, address, email address, and payment information) from purchasers of tickets.

AXS and Elevate share such ticket purchase information with the applicable ticketing client for the event. AEG Clients that receive such information use consumer data they are provided to ensure the security of their services and to prevent fraud; provide customers information about AEG's services, venues and events, or products and services customers purchase or request; support events (including by providing customer service); improve services and products; personalize customers' experience (including marketing and advertising of services and products of interest); and other legitimate business purposes in accordance with applicable privacy policies and law.

AXS, Elevate, and AEG Clients do not share such information with third parties except as authorized in the terms of purchase and applicable privacy policies. Consumers are informed of information use policies during the transaction and such information is also readily available on AXS's and Elevate's websites: <a href="https://solutions.axs.com/axs-privacy-policy/">https://solutions.axs.com/axs-privacy-policy/</a> and https://www.elevatetickets.com/privacy.html.

Question 10 d. Please provide all policies related to the transferability or resell limitations of tickets.

### Response:

AXS and Elevate do not generate or maintain policies related to the transferability or resale limitations of tickets. As noted above, clients, including AEG Clients, have the right to determine whether and in what manner they desire to issue tickets to their events, including whether to provide a policy with respect to transfer or resale of tickets to their events.

Question 11. Does your company permit the sale of speculative tickets on your company's platform?

Question 11 a. What disclosure does your company make to alert consumers of the speculative nature of the ticket and how and when in the purchase process is this disclosure made?

Question 11 b. What actions has your company taken to address speculative tickets sold on your company's platform, including legal or other actions taken to enforce your company's speculative tickets policy?

Question 11 c. In the past year, have any speculative tickets been sold on your company's platform(s)?

Question 11 d. Please provide all policies related to the sale of speculative tickets on your company's platform.

Response from December 12 Letter:

AXS does not permit the sale of speculative tickets on its ticketing platforms.

Supplemental Response:

The Company does not sell speculative tickets, including for any events where an AEG Client is the ticketing client or where AXS or Elevate is the ticketing platform.

Question 12. Does your company work with, own or operate any platform and/or website that make any representation of affiliation or endorsement to a venue, team, or artist, when in fact no formal affiliation or representation exists (also known as white-label websites)?

If yes, please provide a list of these websites and explain:

Question 12 a. How your company coordinates any subject websites, including the sharing of technology and/or sales inventory.

Question 12 b. If and how your company notifies consumers that the website and/or platform is not endorsed or affiliated with the venue, team, or artist represented on your company's properties.

Question 12 c. For 2016, 2017, and 2018, what percentage of your company's total revenue is derived from white-label websites as that term is described above?

Response from December 12 Letter:

AXS does not work with, own, or operate any platform or website that makes any representation of affiliation or endorsement to a venue, team, or artist, when in fact no formal affiliation or representation exists.

Supplemental Response:

Elevate and the AEG Clients do not work with, own, or operate any platform or website that makes any representation of affiliation or endorsement to a venue, team, or artist when in fact no formal affiliation or representation exists.

Although Elevate uses the term "white label" on its website (i.e., "Elevate Tickets matches a robust, white-label ticketing platform with comprehensive, full service operations"), that term means that clients may customize the Elevate platform to fit their specific event/website aesthetic so that consumers experience consistency when moving from the event website through the ticket-buying process. In short, the Elevate platform operates within the client's "official" website for a given music festival, rather than as a distinct consumer facing ticketing exchange.



Question 14. What mechanisms does your company have in place to ensure that consumers are afforded a reasonable opportunity to obtain face-value tickets? What analysis has your company completed to determine the effectiveness of these mechanisms?

### Response:

AXS and Elevate support the rights of artists to determine the manner in which they want to distribute tickets to their concerts, as they are closest to their fans. Therefore, AXS and Elevate provide tools to increase the availability of face-value tickets, such as BOT detection, distributions through fan clubs, pre-registration with pre-sales, digital ticket delivery, and controls on resale designed to provide access to true fans over scalpers.

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The submission of this information does not waive, nor is it intended to waive, any rights, privileges, or immunities of AEG with respect to this matter, including any applicable attorney-client, work product, or other privilege or immunity. Moreover, to the extent that non-responsive information has inadvertently been disclosed, AEG does not agree to any expansion in the scope of the Committee Letter. AEG expressly reserves any applicable privileges and immunities to which it is entitled under applicable law.

The responses in this letter may include confidential business information and sensitive details regarding AEG internal business practices, and should therefore be kept confidential. Because of the sensitive nature of this information, in the event that the Committee intends, during its inquiry into this matter, to disclose any AEG information contained in this letter to an agent, employee, or other person affiliated with any competitor, AEG requests that it be given one week advance notice in order to permit it to address the issue with the Committee. Similarly, in the event that the Committee intends to disclose any of this information in any public forum or to a third party who does not expressly agree to maintain the confidentiality of the information, AEG requests that it be given one week advance notice in order to permit it to address the issue with the Committee.

If you have any questions regarding the contents of this letter, please do not hesitate to contact AEG's outside counsel, Evans Rice or Aaron Cutler, at (202) 637-5600.

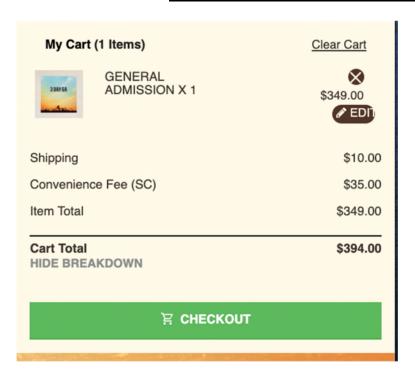
Respectfully submitted,

Dan Beckerman President & CEO

Anschutz Entertainment Group, Inc.

# **APPENDICES TO RESPONSES**

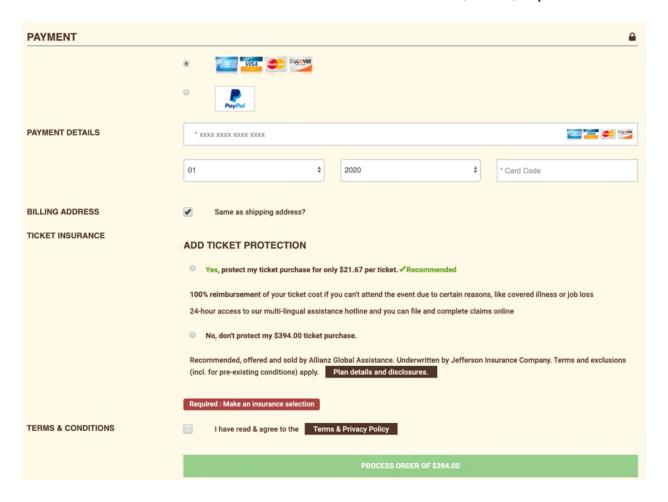
# APPENDIX TO RESPONSE TO QUESTION 4





# **APPENDIX TO RESPONSE TO QUESTION 6**

Insurance is offered at check out. The customer must make a selection (Yes/No) to process the order.



The "Plan Details and Disclosures" are available here: <a href="https://www.allianzworldwidepartners.com/usa/terms-and-conditions/001004685#/productcollapse1">https://www.allianzworldwidepartners.com/usa/terms-and-conditions/001004685#/productcollapse1</a>



Please Note: Click here if you are a resident of CO, MA, and NY.

Event Ticket Protector	
Benefits	Coverage (per person)
Ticket Cancellation Coverage ✓	Up to event cost (\$10,000 max.)
Ticket Interruption Coverage ✓	Up to event cost (\$10,000 max.)
Viewer Advantage ✓	Included
Pre-existing Medical Condition Exclusion Waiver ➤	Available

### + Expand All

Minimum amount of ticket cancellation and ticket interruption coverage is \$150.