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IN THE DARK: LACK OF TRANSPARENCY IN THE LIVE EVENT TICKETING INDUSTRY

WEDNESDAY, FEBRUARY 26, 2020

House of Representatives,

Subcommittee on Oversight

and Investigations,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m. in Room 2123, Rayburn House Office Building, Hon. Diana DeGette [chairman of the subcommittee] presiding.

Present: Representatives DeGette, Schakowsky, Kennedy, Ruiz, Kuster, Tonko, Clarke, Peters, Pallone (ex officio), Guthrie, Burgess, McKinley, Griffith, Brooks, and Walden (ex officio).

Staff Present: Mohammad Aslami, Counsel; Kevin Barstow, Chief Oversight Counsel; Jeff Carroll, Staff Director; Manmeet Dhindsa, Counsel; Austin Flack, Staff Assistant; Evan Gilbert, Deputy Press Secretary; Waverly Gordon, Deputy Chief Counsel; Tiffany Guarascio, Deputy Staff Director; Alex Hoehm-Saric, Chief Counsel, Communications and Consumer Protection; Zach Kahan, Outreach and Member Service

Coordinator; Chris Knauer, Oversight Staff Director; Jon Monger, Counsel; Peter Rechter, Counsel; Tim Robinson, Chief Counsel; Emily Ryan, GAO Detailee; Andrew Souvall, Director of Communications, Outreach and Member Services; Benjamin Tabor, Staff Assistant; Rebecca Tomilchik, Staff Assistant; Anna Yu, Professional Staff Member; Jennifer Barblan, Minority Chief Counsel, Oversight and Investigations; Brittany Havens, Minority Professional Staff, Oversight and Investigations; Peter Kielty, Minority General Counsel; Bijan Koohmaraie, Minority Deputy Chief Counsel, Consumer Protection and Commerce; Tim Kurth, Minority Chief Counsel, Consumer Protection and Commerce; Ryan Long, Minority Deputy Staff Director; Brannon Rains, Minority Policy Analyst; Zack Roday, Minority Communications Director; and Callie Strock, Minority Press Secretary.

Ms. DeGette. The subcommittee on Oversight and Investigations hearing will now come to order.

Today the Subcommittee on Oversight and Investigations is holding a hearing entitled, "In The Dark: Lack of Transparency in the Live Event Ticketing Industry." The purpose of today's hearing is to examine policies and practices in the live event ticketing industry. The chair will now recognize herself for purposes of an opening statement.

Today's hearing will examine a lack of transparency in the live event ticketing industry, an industry that's rife with practices that are harmful to consumers. While many of us may remember standing in line at the box office to purchase tickets to a concert or sporting event or even buying tickets outside of an arena from a scalper, most ticket sales to live events now take place online through apps or ticketing websites.

In 2017 alone, online ticketing represented a 9 billion-dollar market in the United States. Unfortunately the industry's online financial success has often been at the expense of the consumer.

While it is certainly easier to buy tickets to live events today, online ticketing sales have led to anticonsumer practices across the industry. These practices have been well-documented by both State and Federal authorities. In 2016, for example, the New York Attorney General investigated the live event ticketing marketplace and found that, quote, "ticketing is a fixed game."

More recently, the Government Accountability Office found a number of concerning consumer protection issues in the industry including difficulty buying tickets at face value, a lack of transparency around ticket fees, and misleading marketing practices.

In response to consumer concerns, in June, 2019, the Federal Trade Commission

held a workshop designed to discuss problematic practices in the ticketing industry. As a part of that effort, consumer groups raised a host of consumer protection issues in the online marketplace to the FTC including practices that misled consumers about ticket prices or availability, the prevalence of certain ticketing websites that may confuse consumers about the entity from which they are purchasing tickets, and restrictions that limit a consumer's ability to transfer tickets.

On the heels of these investigations and the FTC workshop, last November the committee continued its effort in examining the ticketing industry by sending bipartisan letters to six ticketing companies that make up a diverse cross-section of the industry. The committee's letter inquired into a range of issues that impact consumers. The company's responses and the committee's investigation validated our concerns that consumers face a number of disturbing practices when trying to buy tickets online.

Today's hearing will give us the opportunity to hear directly from companies about these practices and what can be done. In particular, we will focus on five key findings today.

First, consumers attempting to buy tickets online continue to be confronted by high hidden fees. These fees are often not disclosed until the end of the transaction which may mislead consumers about the total cost of the ticket and frustrate their ability to accurately compare prices. Today I want the companies who engage in this practice to explain why they wait until the very end of the buying process to pile on fees instead of providing the total cost upfront which is known as all-in pricing.

Second, companies that place restrictions on consumers from transferring purchased tickets to another individual may be limiting choice for consumers and driving up prices. I want to know why certain companies seem to be making it harder to transfer or to resell a ticket that he has already purchased and whether this practice is

stifling the market and harming consumers. I also want to know if the practice really prevents fraud or if it's just an excuse to limit consumer choice.

Third, consumers appear to be impacted by a lack of transparency relating to ticket availability. Consumers may be unaware that only a limited number of seats frequently could be available by the time tickets go on sale to the general public. For example, the New York Attorney General's investigation found that a majority of tickets for the most popular concerts were reserved for industry insiders or presale events. I want to know how often this occurs, why it's occurring, and why some companies in the primary market are reluctant to let consumers know about the actual number of tickets available at the time of general sale.

The final two findings relate to white label websites and the selling of speculative tickets. White label websites may employ deceptive marketing practices to make consumers believe they are purchasing tickets from an official website when truly they are not. A speculative ticket refers to instances in which a seller offers a ticket for sale on a resale exchange before the seller has the ticket in hand. I want to know how prevalent these practices are, how they impact consumers, and whether the industry believes we should limit them.

As you can see, there's a lot to discuss today. It's clear that many of these practices place consumers at a disadvantage when buying tickets. I look forward to discussing how we can put the consumer first as we look towards findings solutions to make the industry much more transparent.

And with that, I'll yield back and I'll recognize the ranking member, Mr. Guthrie, from Kentucky for 5 minutes.

[The prepared statement of Ms. DeGette follows:]

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Mr. Guthrie. I thank you very much.

Thank you, Chair DeGette, for holding this hearing.

Many Americans have very fond memories of their first concert, their first football or baseball game. I know I do. I remember my first concert when I was 11 years old. I got to see Elvis, and I think what I remember about more than anything was the effort to get tickets to see Elvis. My uncle had a dental office right next to the facility, and they rotated. People had to wait in long lines. As they kept adding shows, we kept getting opportunities to see Elvis. So I had a chance to do that.

But it's completely changed now and I know as we have everlasting memories of these concerts, purchasing tickets for live events can be a difficult process for consumers and whether it's extra fees, transferability of tickets, deceptive white label websites, or speculative tickets, all of these issues can negatively impact the consumer experience. This is why we wrote a bipartisan letter to six companies in November, asking them about their policies and practices as it relates to live event ticketing.

Some of these issues create minor annoyances or inconveniences such as not being able to see the total cost of the ticket with taxes and fees until the end of the purchase flow, but other issues can create major inconveniences, a financial loss for consumers such as being denied entry into an event they potentially traveled a long distance to attend because unbeknownst to them it turns out the ticket they bought was not valid.

The Federal Trade Commission and States Attorneys General are the cops on the beat when it comes to overseeing this industry. For example, the FTC Act prohibits unfair and deceptive acts or practices in affecting commerce, and the FTC can enforce the act for issues related to event ticketing and ticketing companies. And State Attorneys

General have tools to go after bad actors under their State consumers protection laws. If bad actors, some of which we see exploiting the secondary market, seek to deceive or mislead consumers, the FTC and State Attorneys General can and should hold them accountable.

In addition, the Better Online Ticket Sales Act of 2016, we call the BOTS Act, which became law in December of 2016, addresses tickets, ticketing issues, by prohibiting the circumvention of the security measure, access control system, or other technological control measure used by online ticket issuers.

Live events are not just for concerts. They encompass other forms of entertainment such as theater and sporting events. Some of the issues we plan to discuss today do not equally apply to all events, and I think it is an important distinction to make throughout today's discussion where applicable. For example, with respect to ticket availability, a venue that a team plays at such as a stadium or arena has a static number of tickets. In other words, you know how many seats that stadium holds and therefore how many tickets are available for any given event. Conversely, with concerts, the stage and sound system configuration vary by artist and event type, impacting the number of seats that cannot be used because they're behind or to the side of the stage. As a result, the number of tickets for that type of event vary.

In addition, at today's hearing we expect to discuss white label websites which are sales websites built by one company that allows affiliates to use the software to build their own uniquely branded websites. While white label websites are not inherently bad, there are deceptive white label websites that often appear as paid results of internet searches for venues and events and contain a URL and/or language and images on a website that are designed in a way that might mislead consumers to think they are purchasing tickets directly from a venue or an artist. We think that it's an important

distinction to make, as well, as we move forward in today's discussion.

Today's hearing serves as an important opportunity for us to examine and to dive into some of those concerns and issues that consumers face, while making the important distinctions between event types and legitimate versus nefarious practices and to discuss ways to better inform and protect the consumer. The bottom line: Consumers should be able to clearly know what they are buying, who they're buying it from, and what is included in the price of the ticket, ensure that what they purchase is legitimate, and will deliver to them -- be delivered to them in time for the event and is valid and will be honored at the venue.

I thank our witnesses for being here today and being part of this important discussion.

And I yield back.

[The prepared statement of Mr. Guthrie follows:]

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Ms. DeGette. I thank the gentleman.

The chair now recognizes the chairman of the full committee, Mr. Pallone, for 5 minutes.

The Chairman. Thank you, Chairman DeGette.

Today's hearing will bring some much needed transparency to the live event ticketing industry. Every day millions of Americans shop on the Internet for tickets for live events like sporting events and concerts. In some ways the internet has made this experience more convenient, but it also has led to consumers being ripped off as they try to navigate a ticketing industry that for too long has operated in the dark.

Consumers now face a myriad of harmful practices that can lead to them paying more for tickets or paying for tickets that they are prohibited from selling or transferring if they're unable to attend the event. In some instances, consumers are not even receiving the ticket as promised after they purchased it.

This hearing is meant not only to better understand the many challenges consumers face in the ticketing marketplace but to also identify steps to protect consumers from being ripped off.

This committee has taken action in recent years to improve the ticket buying experience for consumers. In 2016, the committee in the House passed H.R. 5104, the Better On-Line Ticket Sales Act of 2018, or the BOTS Act. This legislation was signed into law later that year. It cracks down on the use of computer programs that instantly buy up large quantities of tickets before real people can buy them so they can later be resold at higher prices.

Also in 2016, we asked the Government Accountability Office to investigate consumer protection issues in the live ticketing marketplace so that we could better

understand the problem and GAO's investigation underscored a host of challenges that consumers face when trying to buy tickets online. For example, they found that websites often fail to display or disclose all the fees up front so that the total cost of a ticket can only be known at checkout. This makes it difficult for consumers to compare prices with other sites.

GAO also found that professional resellers have a competitive advantage over the typical consumer attempting to buy tickets on the primary market. This can force consumers to the secondary market where they may face significant price increases. GAO also found that consumers can face deceptive marketing practices including websites that may look similar to that of an official venue but instead often resell tickets for marked-up prices.

And these are all troubling examples of how consumers are being taken advantage of when they're just trying to purchase a ticket for a live event. It was these continuing concerns that led the committee last year to launch a bipartisan investigation into the industry, and our investigation found that the live events ticketing industry is still engaging in a number of anticonsumer practices. Consumers still experience hidden fees, restrictions on transferring a ticket to someone else, and deceptive and misleading websites.

It's clear that ticketing marketplace needs reform in order to ensure the market is transparent, fair, and working for consumers. In order to help correct some of the problems that still persist in the industry, last year I joined Representative Pascrell in sponsoring the BOSS Act. This legislation would provide much-needed transparency and regulations to help level the playing field for consumers.

In the meantime we need answers to several important questions today. We need to know what's going on to take for ticket sellers to -- what it will take really for

ticket sellers to list the total all-in price of the tickets upfront on their platforms.

We need to know why primary market sellers refuse to inform consumers about how many tickets are actually on sale to the general public, and it's time the industry is transparent with consumers about how many tickets are being held back for industry insiders, reserved for presales, or placed directly on the secondary market at a higher price.

We also need to know what additional disclosures are needed to protect consumers from potential deception or outright fraud by white label websites and the sale of speculative tickets.

And, finally, we need to know why hurdles and restrictions continue to be put in place for those looking to transfer tickets.

So it's time we finally bring transparency to this marketplace so that we can protect consumers which, of course, is always our primary goal.

And unless somebody else wants my time, I'm going to yield back, Madam Chair.
Thank you.

[The prepared statement of The Chairman follows:]

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Ms. DeGette. The chairman yields back.

The chair the ranking member of the full committee, Mr. Walden, for 5 minutes.

Mr. Walden. Good morning, Madam Chair, and welcome to all our witnesses and guests. Thank you all for being here.

As the -- as Ranking Member Guthrie mentioned, purchasing tickets to a live event is something we can all relate to. Live -- I didn't know he was 11 when he saw Elvis though. That's -- yeah. Wow, you're old.

Live entertainment, whether it's a -- whether it's a concert, a theater event, or a sporting events can lead to once-in-a-lifetime experiences that create lasting memories. However, a lack of transparency or deceptive acts and/or fraud in the industry can cause a lot of frustration to say the least, in some cases financial harm to consumers.

Some of these issues include deceptive white label websites -- you've heard about that -- speculative tickets, fraudulent tickets to name just a few. I look forward to hearing what the six companies before us today are doing about that and what you're doing to combat some of these issues, protect consumers, and ensure consumer satisfaction.

As Mr. Guthrie mentioned, it's important we keep in mind distinctions with ticket availability issues, different types of white label websites, and more. But it's equally important that we balance consumer protection with potentially unintended consequences, too, to the industry that will ultimately negatively impact consumers as we explore potential solutions to some of these issues.

For example, a 2018 U.S. Government Accountability Office report that was requested by, as you heard, the bipartisan leaders of the committee on event ticket sales and market characteristics and consumer protection issues noted that there are

advantages and disadvantages to certain practices and in some cases it's unclear whether new requirements would introduce new compliance challenges for the ticketing industry such as requiring companies to disclose proprietary information.

Therefore, it's important that this subcommittee gathers all the information necessary and the facts before determining what the potential solutions may be to further enhance consumer protection within the industry.

Furthermore, the Better Online Ticket Sales Act of 2016, known as the BOTS Act, was signed into law in 2016, yet neither the Federal Trade Commission nor the States have taken enforcement action under this statute to date. In addition to the issues outlined in the committee's bipartisan letter sent to the six companies in November, it would be helpful to hear from you-all before us today whether you see bots as an issue in the industry now and how, if at all, it is harmful to consumers, so the issue of bots.

I understand bad actors utilizing bots to game our system may be beyond our borders. That does not mean they are beyond our reach. I'm proud of this committee's leadership on extending the U.S. SAFE WEB Act that reaffirms the FTC's ability to hold foreign bad actors accountable. As with many problems, there's no easy fix and that's probably true with this as well.

This committee should work with the FTC, the Federal Trade Commission, as part of our investigation to figure out how we can address not only this bots issue but also other ticket issues that present create harms to consumers.

The most important thing to keep in mind across the issues that will be discussed today is the need for transparency and appropriate disclosures to consumers and, if there's adequate transparency, consumers will then have the necessary information they need in order to make an informed decision about whether or not they want to purchase a live event ticket, who they want to purchase the ticket from, and what kind of ticket

they want to purchase and what the breakdown is for the total cost of the ticket including taxes and fees.

For example, if a consumer knows that a ticket's dynamically priced and knows what it means for a ticket to be dynamically priced, it should then be left to the consumer to decide whether or not they want to purchase a dynamically priced ticket. In addition, the limits placed on a ticket that designate whether the ticket's transferable or not should be clearly disclosed to consumers before the consumer purchases the ticket so that that consumer understands the limitations placed on the ticket to help avoid possible frustration and financial loss down the road.

So, again, I want to thank you-all for being here today, testifying before the Oversight and Investigation Subcommittee. I look forward to listening to your testimony and working with my colleagues here on the committee on both sides to ensure that we make fully informed decisions that enhance consumer protections.

So with that, Madam Chair, I would yield back the balance of my time.

[The prepared statement of Mr. Walden follows:]

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Ms. DeGette. The gentleman yields back, and that concludes the opening statements.

I ask unanimous consent that members' written opening statements be made a part of the record.

Without objection, so ordered.

I now want to introduce our witnesses for today's hearing, and I want to thank all of you for coming today: Ms. Amy Howe who's the President and Chief Operating Officer, Ticketmaster, Mr. Brian Perez who's the Chief Executive Officer, AXS, Ms. Stephanie Burns, Vice President and General Counsel, StubHub, Mr. Ryan Fitts, Vice President, Legal Affairs, Vivid Seats, Mr. Don Vaccaro, Founder and Chief Executive, TicketNetwork, and Mr. Joe Choti, President and Chief Executive Officer, Tickets.com.

Again, thanks to all of you and I know all of you are aware the committee's holding an investigative hearing and, when doing so, we have the practice of taking our testimony under oath.

Does anyone object to testifying under oath today?

Let the record reflect the witnesses have responded "no."

The chair then advises you that under the rules of the House and the rules of the committee, you are entitled to be accompanied by counsel. Does any of you desire to be accompanied by counsel today?

Let the record reflect that the witnesses have responded "no."

So, if you would, please, rise and raise your right hand so you may be sworn in.

[Witnesses sworn.]

Ms. DeGette. You may be seated.

Let the record reflect the witnesses responded affirmatively, and you're now

under oath and subject to the penalties set forth in Title 18, Section 1001 of the U.S. Code.

The chair now recognizes our witnesses for a 5-minute summary of each of their written statements. In front of you is a microphone, a timer, and a series of lights. The timer will count down your light, and the red light will turn on when your 5 minutes has expired.

So now I'd first like to recognize you, Ms. Howe, for 5 minutes for your opening statement.

TESTIMONY OF AMY HOWE, PRESIDENT AND CHIEF OPERATING OFFICER, TICKETMASTER; BRYAN PEREZ, CHIEF EXECUTIVE OFFICER, AXS; STEPHANIE BURNS, VICE PRESIDENT AND GENERAL COUNSEL, STUBHUB; RYAN FITTS, VICE PRESIDENT, LEGAL AFFAIRS, VIVID SEATS; DON VACCARO, CO-FOUNDER AND CHIEF EXECUTIVE OFFICER, TICKETNETWORK; AND JOE CHOTI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TICKETS.COM

TESTIMONY OF AMY HOWE

Ms. Howe. Good morning.

Chairman Pallone, Ranking Member Walden, Chair DeGette, Ranking Member Guthrie, and members of the subcommittee, thank you for the opportunity to appear before you today.

My name is Amy Howe, and I'm the president and chief operating officer of Ticketmaster, North America. As a leader in the live event ticketing industry, we share your interest in improving the ticketing ecosystem to better protect consumers. Before addressing the specifics of these important issues, I'd like to offer some important context.

The live entertainment industry is like no other. It's all about once in a lifetime experiences to draw the most passionate fans.

Ms. DeGette. Excuse me, Ms. Howe, if you can just move that microphone a little closer --

Ms. Howe. Is that better?

Ms. DeGette. We're been having problems with them dropping off. That's better. Thank you.

Ms. Howe. Thank you.

To draw the most passionate fans on Earth to unforgettable moments in time. As we like to say, live only happens once. It sounds simple, but it helps remind our team that for each fan we serve we have only one chance to get it right. We want the fan experience to be memorable and, importantly, simple, safe, and transparent. We do our best every day to deliver on this promise and keep Ticketmaster free from the unethical and illegal activities that hurt consumers.

The greatest challenge is simply supply and demand. Even in the world's biggest venues, events have limited capacity. This imbalance naturally causes disappointment for fans who are unable to get tickets and unfortunately opportunity for bad actors to prosper.

We invest millions of dollars annually to protecting our platform so fans, clients, and brokers can avoid issues created by bad actors and engage within a legitimate, reliable ticketing marketplace. Unfortunately there will be always those who want to cheat the system, take advantage of fans, and give our industry a bad name. The committee has rightly called out many of these tactics: Deceptive websites, speculative tickets, bots, and lack of transparency, amongst others.

When we received the committee's November inquiry, we saw that we have many of the same concerns. As we've shared with the committee, Ticketmaster bans speculative ticketing on our platform, we report deceptive websites, we combat bots, and we support all-in pricing. Let me quickly touch on each of these.

A leading obstacle to fans' ability to access tickets fairly is the proliferation of sophisticated consumer automation, or bots, which accesses thousands of tickets to resell them to fans at staggering prices. Forty percent of activity on ticketing sites today is automated with nearly 70 percent of that traffic here in the U.S. alone.

Since 2018, Ticketmaster has blocked over 30 billion bot purchase attempts. We do this because we fundamentally believe tickets should go to fans at the price determined by the artist. We've also developed innovative technologies like Verified Fan and Smart Queue to weed out bots and bad actors and we supported the 2016 BOTS Act which made bots illegal.

Despite the massive investments we've made to help fans get fair access to tickets, we know this alone will not solve the problem which is why we strongly support bolstering the BOTS Act with more rigorous enforcement.

Second, speculative ticketing, which is when professional sellers offer tickets they don't have and may never have, is commonplace. Earlier this month The Rolling Stones announced their tour dates and within minutes, before the band had even released those tickets to the general public, hundreds of spec tickets were available on other resale marketplaces, some upwards of \$3,000, or 7 times face value. Ticketmaster's resale policy prohibits spec tickets, we actively remove them from our site, and we support mandated disclosures or banning the practice all together.

Next, if you Google Rolling Stones tickets, you'll likely find official-looking ticket sites which are deceptive and misleading. These sites are actually fronts for resellers trying to trick fans into believing they're buying primary tickets when, in fact, what is being offered are inflated resale tickets. Ticketmaster bans and reports deceptive URLs and to insure transparency on our marketplace, if we aren't the primary ticketer we link to the official box office, a best practice we feel should be adopted industrywide.

Last, what consumers may not know is that every ticket we sell is owned by the event organizer and artist's team or venue and not by Ticketmaster. Event organizers determine pricing, fee structures, and on-sale strategies. Then we support and implement those decisions. What everyone does know is that their total ticket price is

the face-plus fees but that total should be disclosed from the outset, not at the end of the purchase process, which is why we support legislative, mandating, industrywide all-in pricing and believe that there should be robust enforcement of this requirement.

As a leader of our company, I work alongside more than 3,000 dedicated employees who work tirelessly every day to provide a safe, reliable, and transparent experience for our fans and this is why we are here today, to share our approach and challenges, to hear your perspective, and to work together to identify legislative and regulatory solutions to improve the ticketing ecosystem.

I truly appreciate the opportunity to discuss these important issues and look forward to answering your questions. Thank you.

[The prepared statement of Ms. Howe follows:]

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Ms. DeGette. I thank you, Ms. Howe.

I'm now pleased to recognize Mr. Perez for 5 minutes. Mr. Perez.

TESTIMONY OF BRYAN PEREZ

Mr. Perez. Good morning, Chair DeGette.

Ms. DeGette. Your microphone.

Mr. Perez. Good morning. Thank you.

Chair DeGette, Chairman Pallone, Ranking Members Guthrie and Walden, and other distinguished members, my name is Brian Perez and I am the CEO of AXS, a wholly owned subsidiary of Anschutz Entertainment Group, a leading sports and live entertainment company.

AEG is a privately held company that operates domestically and internationally across a number of segments within the live entertainment and sports industry including AEG Real Estate, AEG Sports, AEG Presents, and AXS Ticketing.

AXS Ticketing provides primary and resale ticketing technology and services as the official authorized agent of various sports teams, venues, and live event promoters. I've been in the live entertainment business for over 20 years, having previously held positions at the NBA, Live Nation, the NHL's Dallas Stars, and Madison Square Garden.

I'd like to thank you for inviting me to testify at today's hearing, examining policies and practices in the live event ticketing industry. Our industry is one of world-class experiences and memories of a lifetime, and I appreciate the opportunity to provide our perspective on a business that impacts so many of your constituents. We are fortunate to work in this business, to be able to play some small part in these magical moments,

and we fight every day to help our clients create a better fan experience because we are fans, too.

And I applaud the initiative of this hearing as I believe our shared goal is to get tickets into the hands of real fans at fair prices in a seamless, secure, and clear purchase experience.

Unfortunately many of these events are limited in capacity and face excess demand and, even though artists often try to set a fair price that is available to fans from all walks of life, they are frustrated in their efforts by bad actors chasing profits, often using illegal practices to purchase tickets before the honest fan has a chance.

When paired with two of the most insidious practices to arise in our industry recently, speculative tickets and deceptive websites, it's no wonder that the consumer is left feeling disillusioned and out of luck. I'm thankful for the opportunity today to discuss how we're using technology in business practices to combat these bad actors.

I also believe that thoughtful legislation with aggressive enforcement can have a positive impact on curbing these practices. Thoughtful legislation and aggressive enforcement can also help level the playing field between primary and resale marketplaces, ensuring that we are all playing by the same rules, so that fans are more easily able to understand their options and the prices they are paying.

We support all-in pricing at the outset of the purchase transaction as long as it is applied equally and uniformly to all ticket sellers and market places. As we have seen, if there is any wiggle room, bad actors will find a way to exploit it against the innocent consumer in the name of profiteering.

Once again, thank you for the opportunity to testify before the committee today and for your assistance in helping fans attend events at a fair price and in a fair manner. I look forward to answering your questions. And as the committee grapples with

legislative solutions, AEG looks forward to being engaged in that process with you.

Thank you.

[The prepared statement of Mr. Perez follows:]

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Ms. DeGette. I thank the gentleman.

The chair now recognizes Ms. Burns for 5 minutes for an opening statement.

TESTIMONY OF STEPHANIE BURNS

Ms. Burns. Good morning.

Chair DeGette, Chairman Pallone, Ranking Member Guthrie, and members of the subcommittee. Thank you for the opportunity to participate in this important hearing.

StubHub shares the subcommittee's commitment to consumer protections and applauds your effort to look at the industry holistically on behalf of fans. StubHub was founded in 2000 and revolutionized secondary ticket sales by providing fans a safe, transparent, and trusted marketplace to buy and sell tickets online.

StubHub has more than 130 partnerships with major sports leagues, universities, teams, venues, and artists around the world. Every transaction on StubHub is protected by our industry-leading FanProtect guarantee. In those rare instances when there is something wrong with the ticket purchased on StubHub, we will provide a comparable or better replacement ticket or, in the limited instances where that is not possible, we provide a full refund inclusive of fees. StubHub's FanProtect guarantee is the hallmark of our business, and it is why we have earned the trust of fans.

Our mission is to connect fans to the joy of live events. A fair, secure, and competitive ticket marketplace is in the best interest of fans. In recent years our mission has been complicated by anticompetitive and anticonsumer practices. Many of these issues were identified by the committee during its investigation. I'll touch on three of these issues today including transferability, transparency, and deceptive URLs.

First and most importantly for consumers is transferability. Fans should always have the option to purchase a freely transferable ticket at the initial point of sale. Primary ticket issuers are using terms and conditions in technology to place downstream restrictions on the tickets that fans have rightfully purchased. With ticket restrictions, ticket issuers can single-handedly eliminate consumer choice and foreclose competition.

For over 3 decades, Ticketmaster has been a dominant primary ticket issuer, accounting for approximately 80 percent of tickets sold. What you may not realize is that Ticketmaster is also a prominent secondary ticket resale platform. Ticketmaster is increasingly using its dominance in primary ticketing to extend its dominance to secondary ticket sales which harms consumers. Here's how.

Through its SafeTix technology, Ticketmaster is able to disable ticket transferability completely or limit transferability solely to its proprietary platforms. Ticketmaster is using this technology to force consumers who purchase resale tickets on competing sites to complete the transaction within their own app. This means that consumers who elect to buy tickets on StubHub are forced to register with Ticketmaster, download the Ticketmaster app, and provide their personal data to Ticketmaster to receive their tickets. This practice is a blatant data grab. It has been reported that Ticketmaster will apply SafeTix technology to all of its ticket sales by 2021. This is why Congress must act now.

Secondly, transparency. Bots are often blamed as the reason why fans have difficulty accessing tickets. Thankfully Congress addressed this issue in the 2016 BOTS Act. StubHub proudly supported this effort. Bots are not the only reason why fans have difficulty accessing tickets. In fact, large percentages of tickets are never made available to sale to the general public. According to a report by the New York Attorney General's office in 2016, an average of 54 percent of tickets are held back for events.

The average number of tickets made available to the public falls to 25 percent for top concerts and was noted to be as low as 12 percent for one concert at Madison Square Garden. In some instances, tickets are held back from the initial on-sale, gradually released, and often dynamically priced to reflect the current market rate which may be higher than the original on-sale. Consumers deserve to know that ticket issuers are manipulating the release of ticket supply, resulting in higher prices.

Lastly, deceptive URLs. When you buy a ticket through StubHub, you buy it on StubHub.com. StubHub does not own or operate deceptive URLs, also known as white label sites. White labels are deceptive because they mislead consumers into believing they are affiliated with the venue, artist, or team when they are not. StubHub encourages the committee to investigate the fullest of harms associated with white label sites and stands ready to assist.

StubHub is committed to partnering with policymakers and industry stakeholders to promote a safe, transparent, and competitive live event ticketing industry to benefit fans across the globe.

Thank you again for the opportunity to testify today and for your consideration of our comments. I look forward to answering any questions you may have.

[The prepared statement of Ms. Burns follows:]

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Ms. DeGette. I thank you, Ms. Burns.

The chair is now pleased to recognize Mr. Fitts for 5 minutes.

TESTIMONY OF RYAN FITTS

Mr. Fitts. Good morning.

Chair DeGette, Ranking Member Guthrie, members of the committee, thank you for the opportunity to appear today on behalf of Vivid Seats.

Ms. DeGette. Mr. Fitts, I'm also going to ask to you move the microphone close. Thanks.

Mr. Fitts. Those of us fortunate enough to work at Vivid Seats aren't just employees. We're fans as well, and the fan experience is at the center of everything we do. We are committed to working with you to foster innovation, promote competition, protect fans in the ticket marketplace. That is why we are pleased to announce our support for proposals that would prohibit undisclosed speculative ticket sales, prohibit deceptive marketing practices by white label websites, require upfront, all-in pricing at a level playing field.

And, significantly, we believe that the cornerstone of any congressional action in this industry must focus on protecting fans's rights to buy and sell tickets, when, where, and how they wish. This essential fan protection, known as transferability, has already been enacted by Colorado and by other States and no State has taken this right away. Importantly, it's opposed only by primary ticket sellers with market power who are trying to tighten their grip on tickets by restricting transferability which would leave fans with fewer choices and higher prices.

The ticketing marketplace today is a tale of two channels, a resale channel that has seen vibrant competition and progress and a primary channel that has not. Vivid Seats operates in the resale channel. I would like to take just a minute to note how far we have come.

As I'm sure many of you will remember, the resale market looked very different before Vivid Seats and companies like it came on the scene. Back then fans who were not fortunate enough to get a ticket through the primary seller had no safe and convenient way to obtain tickets, and fans who had tickets but could not use them had no safe and convenient way to sell them.

Many fans had to resort to unsecured channels like unverified Internet listings or back alley sales where counterfeit tickets were all too common. I remember back in the nineties trying to buy Cubs tickets on a street corner, never able to compare choices and always worried I was being sold a fake ticket. Vivid Seats was created to solve this problem.

Today if fans wants to buy ticket at the last minute for an event that's otherwise sold out, our platform allows them to do. If fans have tickets that they cannot use, maybe something came up at work on a sudden illness, fans can sell those tickets on our platform and recover their costs. And every ticket sold on our platform is covered with a hundred percent industry-leading buyer guarantee.

We promise a valid ticket delivered on time and as described or your money back. If a fan has any questions or encounters any issues, we'll quickly provide a response from our 300-person call center that typically connects fans with live support in less than a minute.

We're very proud that Newsweek recently named us to its list of America's best companies for customer service, ranking us No. 1 in the ticketing industry, and we're also

proud to have been chosen as the official partner for a host of well-known teams and brands including ESPN, the University of Colorado, the LA Clippers, the Chicago Bears, and many more.

Today Visit Seats competes vigorously in a vibrant secondary ticket channel which includes many of the companies represented on the panel with me today, and let me be clear. We love competition. It challenges us all to innovate and to strive to provide fans the best value. At Vivid Seats we think of new ways to rise to this channel every single day.

The scene is different in the primary channel where only one company wields extensive control. That kind of market power can be abused in ways that hurt fans. Fans who try to purchase tickets from the primary seller often find that sales are limited to a short on-sale period with limited seating options typically held weeks or months in advance of the event.

Fans are hurt when the primary seller restricts the transferability of tickets. As is the case with most property, a ticket belongs to the fan who holds it. They should be able to transfer that ticket on the platform of their choice. By restricting transferability, primary sellers exert even more control over the marketplace, essentially mandating that tickets become available from one source and one source only.

Understanding the threat, the transferability restrictions posed for consumers, states including Colorado, Connecticut, Illinois, New York, Virginia, and Utah have enacted pro-consumer laws guaranteeing fans the right to resell tickets. We urge Congress to do the same.

I appreciate the opportunity to participate in this hearing, and Vivid Seats looks forward to working with Congress to create the best experiences possible for fans.

Thank you.

[The prepared statement of Mr. Fitts follows:]

***** INSERT 1-5 *****

Ms. DeGette. I thank you, Mr. Fitts.

The chair now recognizes Mr. Vaccaro for 5 minutes.

TESTIMONY OF DON VACCARO

Mr. Vaccaro. Good morning, Chairman DeGette, Ranking Member Guthrie, and distinguished members of the subcommittee. My name is Don Vaccaro, and I am the chief executive officer of Ticket Network. I thank you for inviting me today to share information about our company and the ticketing industry.

Consumers deserve fair and equitable access to live entertainment events but face increasing difficulty in finding them. In response to the committee's questions, we have outlined a number of issues that exist and proposed remedies to fix them. They can be summarized in three key needs: Transferability, disclosure, and freedom. When tickets go on sale, there's nothing about the process that is clear for consumers. For starters, the supposed on-sale date for the general public is far from the first day tickets are available.

Presales for various groups are spread throughout the ticket process. Often huge portions of unpurchased tickets are hidden, creating the illusion of scarcity during both presales and general on-sales.

Consumers' fear of missing out are triggered when in reality there are thousands of additional tickets waiting to be posted. These practices deceive consumers about ticket availability and keep prices high. These held-back tickets are dripped into the regular market down the road or sold directly through secondary websites.

The lack of transparency in the sales process is the biggest factor contributing to

price inflation and ticketing. Clear disclosure of ticket prices and fees are hard to come by, both on the primary and secondary market.

Primary sellers often ply dynamic prices that move up during periods of high demand in tandem with false scarcity of inventory. This means that very few consumers have any hope of securing tickets at the published face value. Those prices are subject to enormous undisclosed fees that draw the overwhelming majority of consumer complaints as evidenced by submissions to the FTC in advance of their hearing on tickets in June, 2019. Which, according to our sample, more than 85 percent of the consumers's main issue was hidden fees, extra charges, and deceptive price advertising. The next largest issue was floor pricing and transferability.

Some websites impose floor prices and coordinate those with sellers. Those floors artificially inflate prices and harm consumers who bought tickets and can no longer attend.

FTC Commissioner Slaughter gave clear direction to ticket sellers to disclose fees up front or the FTC would intervene. We heeded her warning. Ticket Network has never allowed floor pricing and is leading the way in developing retail websites that don't trick consumers using high and hidden fees.

Ninety-nine percent of our retail websites, we offer consumers the option to view all-in prices including fees before any personal viable information is consumed. We also have approximately 30 percent of our websites charge no service fees at all to the consumer and it's baked in, giving consumers a true transparent solution.

We believe that this model is a model for the industry. We also believe that there's no necessity for legislation for folks in this industry to do the right thing. We can do it now.

But perhaps the most egregious consumer abuse are systems that restrict the

availability for consumers to transfer and resale tickets while simultaneously harboring an enormous amount of consumer data to sell to marketers and suppressing the ability of some classes of consumer from even participating in the process.

In summary, there's several commonsense measures that can vastly improve the customer experience. Transferability, transparency, disclosure are the keys, rather than the ever-increasing concentration of market power in this individual in the hands of a few bad actors.

Thankfully there's a proposed solution out there. The BOSS Act from Representative Pallone, Pascrell, and Senator Blumenthal, on balance, it protects competition and takes vital steps for a more consumer-friendly experience and that's something we're striving for.

And just to echo, it's all about the consumers hopefully. It's not about us. It's what's best for the consumers that's going to make this industry better.

Thank you.

[The prepared statement of Mr. Vaccaro follows:]

***** INSERT 1-6 *****

Ms. DeGette. Thank you, Mr. Vaccaro.

Now the chair recognizes Mr. Choti for 5 minutes.

TESTIMONY OF JOE CHOTI

Mr. Choti. Good morning, Madam Chair and distinguished members of the committee. My name is Joe Choti, and I'm the chief executive officer and president of Tickets.com.

I appreciate the opportunity to participate in today's hearing and contribute to the committee's efforts to improve the transparency and ensure fairness for our consumers in live event ticketing industry.

Tickets.com is a technology company whose core product is the primary ticketing platform known as ProVenue. ProVenue serves as the core of a comprehensive suite of products and services that are utilized by over 250 United States client organizations that sell primary tickets, their primary tickets, on their own brand in their own box office and through online measures.

While client organizations solely establish the policies and practices for a ticket sold through ProVenue, Tickets.com provides an array of technological features and functionality that allows venues to create events, establish ticket quantities, create and adjust pricing, list availability, and establish and display fees, all designed to enhance the patrons' live event ticketing experiences that can be utilized to address consumer protection concerns identified at this morning's committee.

Tickets.com is constantly striving to improve and innovate patrons' live event ticketing experiences. We look forward to working with the committee towards our

mutual goals. Hopefully today's panel can be a step forward in that direction. I thank you for the opportunity to testify, and I look forward to your questions later on this morning.

[The prepared statement of Mr. Choti follows:]

***** INSERT 1-7 *****

Ms. DeGette. I thank the gentleman.

It's now time for members to ask you questions, and the chair will recognize herself for five minutes.

Ms. Burns, the 2016 New York Attorney General report that you referenced in your testimony found that the industry's use of holdbacks and presales restrict consumers' access to tickets. In fact, for some popular concerts, an average of 54 percent of tickets were held back for industry insiders, fan clubs, credit card presales, artists, and other sources, according to the report.

In your testimony you said that ticket holdbacks are a major contributor to the limited number of face value tickets available to the general public.

If you can tell me, Ms. Burns, very briefly, how prevalent are those hold banks in the ticketing industry and why should consumers care about them?

Ms. Burns. Well, the holdbacks are an issue in our industry because it limits supply.

Ms. DeGette. Right. How prevalent are they?

Ms. Burns. They're prevalent. Just in terms of how prevalent, I couldn't give you a figure but they're incredibly prevalent. It's a common practice of primary ticket issuers, but it's an issue for consumers because it limits supply.

Ms. DeGette. Right.

Ms. Burns. Right? And when you have limited supply and you have especially for events that are high in demand, it creates a false sense of scarcity and over time, as those tickets are trickled out, can result in higher prices for fans than if they were originally offered just all at once.

It also limits access to fans who, you know, you want to purchase those tickets and

the lack of transparency is just, you know, an issue in the industry in general.

Ms. DeGette. Thank you.

Ms. Howe, from your -- from your perspective, how many of the concerts that are or the events that you sell do you have the holdbacks in the range of 54 percent, that type of range?

Ms. Howe. Thank you for the question, Chair DeGette.

Let me clarify some misconception. I want to try to tease apart holds from presales for a minute. True holds which are effectively tickets that the artist is holding back for friends and family, VIP, and in some cases promotions, are single digits. There's no incentive for the artist to want to hold that inventory back. When they're going on sale and 90 percent of their marketing dollars are being spent at the on-sale, they want to get that inventory out there.

Ms. DeGette. So you just don't agree with what the --

Ms. Howe. I don't agree respectfully.

Ms. DeGette. Okay. I want to go back to you, Ms. Burns, because you talked about ticket transferability and what you said in your written testimony is arguments in support of transfer restrictions was a smoke screen. Can you tell me why that you hold that -- why that's your perspective?

Ms. Burns. Yes. So I believe what you may be referring to is the argument of fraud being used as a justification for limits on transferability. We believe that's a smoke screen because, if you look at the incidents of fraud, it's actually quite low in the ticketing industry, especially as we move towards mobile ticketing.

So, it's really the issue here is using technology really to hold consumers captive when they purchase a ticket so that if they want to resell that ticket, they're forced to do so through the platform or the mobile system of the primary issuer.

Ms. DeGette. Thank you.

And Ms. Howe, what's your perspective on that?

Ms. Howe. If you believe that five million fraudulent tickets a year is low, we would disagree with that.

The issue around transferability is -- let me clarify. This is a very small percentage of events that use nontransferable tickets today. When it's used, it is used for a very consumer-friendly practice which is to get tickets into the hands of real fans at below-market prices. So Pearl Jam most recently, many of you are familiar with, is using this and what we're seeing, if you look at those States that allow artists to restrict transfer, Pearl Jam is selling a 98-dollar ticket, 5-dollar charitable fee, and there's virtually no inventory on the resale market.

In those two States, New York and Colorado, where they've pulled that right away from the artist, you're seeing thousands of tickets on the secondary market for \$7,000. So --

Ms. DeGette. Okay. Thank you. I have just a few minutes left, and I have one more question for everybody.

Which of your -- do any of your businesses sell these white label tickets, engage in this? Let the record reflect everybody has -- oh, Mr. Vaccaro.

Mr. Vaccaro. I apologize. We have multiple definitions of what a white label site is.

Ms. DeGette. You got to turn your mike on.

Mr. Vaccaro. I apologize. We have multiple different definitions of what a white label site is. I can go into it with you but basically we allow consumers, as well as other folks here, to sell tickets on a website that's branded to them.

Ms. DeGette. Okay. Would you agree that we need more disclosure of these

sites so consumers know where they're buying their tickets?

Mr. Vaccaro. I would answer that --

Ms. DeGette. You just said you support this bill.

Mr. Vaccaro. I supported the bill and I think we have enough and I think the disclosures comply with what the FTC said and I'll --

Ms. DeGette. Okay. I'm out of time. Thanks.

Does everybody else agree? Just -- does anybody disagree that we need more controls on these white label sites? No. Okay. Everybody agrees.

Mr. Guthrie, you're recognized for 5 minutes.

Mr. Guthrie. Thank you very much. I appreciate the ranking member of the full committee thinking I'm too young to have seen Elvis, but that was 1975. I have a question --

Ms. DeGette. End of his career --

Mr. Guthrie. End of -- yeah, it was 1975, a couple of years before he passed unfortunately.

Can you briefly describe, each of you -- and I only have a few minutes. So, I want to make sure I -- so "briefly" is the right word -- the type of business model. I know you have primary market, secondary market, white label software, et cetera, what type of market you guys operate in and if any affiliates operate as the marketplace. I know Ticketmaster's in this category. I don't know if the others -- I know, Mr. Choti, you might be but you have a primary and secondary and, if you do, how those interact with each other?

So Ms. Howe and then I'll go down the list --

Ms. Howe. Correct. Thank you for your question. We have a primary market. The business models, we compete for the exclusive rights to ticket a venue and the fees

which are shared and split with the venue go to providing an important service which is protecting our consumers in the marketplace and making sure we can get them in safely.

We also compete in the secondary market. We are a number three player. So we have a much smaller share of secondary market, and we got into that because we thought it was important for us to be able to provide a safe and transparent way for consumers to buy all tickets, both primary and secondary.

Mr. Guthrie. Okay. Mr. Perez.

Mr. Perez. Similar to Ticketmaster we operate in the primary segment where we're the authorized agent for the initial release of tickets for sports teams, venues, and event promoters. We also operate a resale platform that's integrated with the primary. So all tickets that are sold on our resale platform are ones that we've issued originally. So they're verified, canceled, and reissued directly to the purchaser.

Mr. Guthrie. Okay. Ms. Burns.

Ms. Burns. We are at our core a marketplace, so a secondary ticketing marketplace, and we have relationships with -- where we're the official secondary partner for leagues, teams.

We also have a primary business. It's a very small portion of our business. We have experienced challenges with trying to break into primary ticketing when we're up against a competitor that has an 80 percent market share.

Mr. Guthrie. Okay. Mr. Fitts.

Mr. Fitts. We operate a resale marketplace called vividseats.com where buyers and sellers are put together to vie for tickets. We offer a wide variety, and people can compete on prices and understand what the full amount inventory available on resource is.

We also offer a technology solution called Ticket Fulfillment Services which sells

fulfillment solutions to companies that want to provide tickets to their consumers such as Capital One, such as Groupon, American Airlines, and Caesars Entertainment.

Mr. Guthrie. Thanks. So, Mr. Vaccaro, just to give you a chance to answer more of the question more because none of them previously did. The white label, so you were talking about how you have branded.

White label has a lot of different definitions. It doesn't necessarily mean bad. So if you have a chance to talk about your business practice in that area, if you can turn the mic. I am sorry.

Mr. Vaccaro. Thank you. For the Armed Forces, we have a website called armedforcestravel.com. So what we do is we power that engine which is owned by the government to give military members tickets with no service charges and no shipping fees. Okay. So we're the official provider for them. We provide them that website.

I was hearing about the other folks here and anyone who wants a website we will help them or we would help them out with the back end, providing them fulfillment services for those websites. Each deal is different. Some people market their own websites. Some people we provide more functionality to and less.

But, you know, just to be clear, I think a lot of other folks here might be more involved in white label type websites than they're properly communicating.

Mr. Guthrie. Okay. Thank you.

And Mr. Choti.

Mr. Choti. We're a technology company that focuses on the primary market. We provide a solution for venues to, you know, create events, create configurations for those events, establish ticket quantities, adjust and modify pricing of tickets, list availability, and establish fees, fees and how those fees are applied.

Mr. Guthrie. Okay. I'll start with you and go backwards then. So, fees, so

how do you establish -- who determines the fees, how do you establish the fees, and what are the fees used for?

Mr. Choti. Again we're a technology platform, and we give the tools and the functionality to our venues and decide how and where and when they want to invoke certain pieces of functionality.

Mr. Guthrie. Okay. Mr. Vaccaro, how do you-all determine fees?

Mr. Vaccaro. On the sites that we control, we determine fees by what the others in the marketplace are charging to match the fees and displays as close to them and return, get a return on investment for our marketing dollars.

So all the money and fees basically goes to marketing.

Mr. Guthrie. Okay. Mr. Fitts, I don't know if I'll have time to get all the way down but we'll try.

Mr. Fitts. In resale, the cost has two components, the base price which is set by the seller and not by us and the fee which we assess and the fee is used to pay for the call center I described in my opening statement --

Mr. Guthrie. How do you determine the fees? How do y'all determine --

Mr. Fitts. It's market competition. So it's subject to discipline by the market. If there's a lower price, we have to match it.

Mr. Guthrie. Okay. I'm out of time but Ms. Burns -- she'll let you finish if you'll be brief, each one of you.

Ms. Burns. Okay. We are marketplace. So sellers determine the prices of tickets. As Mr. Fitts explained, there's two components to pricing. There's the price of the ticket and the fees we charge. Because we're a marketplace, the sellers determine the price of the tickets.

Mr. Guthrie. If your fee's too high, people aren't going to use your site.

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[11:01 a.m.]

Mr. Perez. Fees on our platform, both primary and resale, are set by the client, and they're usually determined by market analysis.

Mr. Guthrie. Ms. Howe?

Ms. Howe. Similar to Mr. Perez, fees are determined with the event organizer, and we share in a portion of those fees.

Mr. Guthrie. Thank you. I appreciate the indulgence of the chair, and I yield back.

Ms. DeGette. The chair now recognizes the chairman of the full committee, Mr. Pallone, for 5 minutes.

The Chairman. Thank you, Madam Chair.

I'm particularly concerned by the hidden fees that the ticketing industry charges American consumers at the end very end of the purchase process, and we're all familiar with this: You search for a ticket online, and one price is initially displayed, but, when you go to check out, hefty fees are added, and the final price is much higher than the original price shown.

There was a 2016 report by the National Economic Council that stated, I quote: At their worst, such fees can be fraudulent or deceptive; at a minimum, they make prices unclear, hinder effective consumer decisionmaking, and dull the competitive process.

So let me start with Ms. Howe. In your written testimony, you stated, and I quote: Consumers should be able to see the total cost of their tickets, including all fees, at the beginning of the purchase price process, not only at the end.

So let me ask you, Ms. Howe: How would providing the total ticket price at the

beginning of the purchase process as opposed to the end benefit consumers?

Ms. Howe. Thank you for your question, Chairman Pallone.

We believe that providing full disclosure, not just the face value of the ticket, but the fees, will help aid a consumer in making the right decision. So, instead of getting so far down the purchase path, you should know upfront what you're paying for and where those fees are going.

The Chairman. And how would -- you further stated that requiring all live event ticketing marketplaces to move to all-in pricing would, and I quote, prevent price manipulation, provide transparency, and protect consumers.

But is it Ticketmaster's position that it would support all-in pricing?

Ms. Howe. Absolutely. We support it, but what we believe, it needs to be mandated and that all marketplaces need to comply.

The Chairman. So, if -- as a dominant player in the industry, if you voluntarily implemented this, I mean, you don't see that as being effective? You think it has to be mandated by law?

Ms. Howe. It's a good question. The reason we don't believe it's going to be effective is it's confusing to consumers. Right now, yeah, you need consumers to understand apples to apples, and, today, if you look at Ticketmaster and you go to another marketplace, that ticket may seem more expensive, but the other marketplaces are marking that down and putting fees as high as 40 to 50 percent on the back end. So they're making ill-informed decisions if you don't have apples to apples.

The Chairman. Okay.

And let me ask Mr. Perez. I'd like to get your views on this issue of all-in pricing. In a briefing with the committee staff, I understand you told the committee that disclosure of a ticket's full price needs to occur as early in the purchase process as

possible. So why is it important to provide the full ticket price to consumers upfront, and would you support a bill to mandate it?

Mr. Perez. Thank you for the question, Chairman Pallone. Because of the customer confusion between the primary and the resale market, they are price shopping across for the same ticket inventory across multiple websites. And it's our belief that, with legislation that requires all of us to show the fees all in upfront, then people would be able to make informed decisions on the value and the cost of the ticket that they're purchasing.

The Chairman. Okay.

And then let me finally ask Ms. Burns. I understand that Stubhub implemented all-in pricing from 2014 to 2015, but ultimately moved away from that model. Why did Stubhub move away from all-in pricing, and do you believe Stubhub's experience would have been different if other players in the industry had followed your lead?

Ms. Burns. Yeah. And I just want it make one clarification.

The Chairman. Sure.

Ms. Burns. We actually do show all-in pricing on our site today, and we allow it through search, as well as ticket-listing pages. Consumers have an optional view to search based on all-in pricing, so we leave it to the consumer, which we think is the right thing to do.

But, to answer your question, the reason why we moved away from it is because it was confusing for consumers when we were offering all-in pricing and other ticketers were not because consumers just didn't understand that they were viewing prices that were inclusive of fees; they thought they were viewing prices that were exclusive of fees.

So, for all-in pricing to work, we believe there needs to be clear guidelines, you know, clear requirements of what constitutes all-in pricing, as well as universal and

consistent enforcement.

The Chairman. Okay. Well, I think it's critically important that consumers have complete information about how much they're going to spend on tickets at the beginning, not at the end. I think all three of you agree.

So, going forward, I hope the industry will cooperate with us in our efforts to put the consumer first, and all of you said that you would support a mandate, and, Ms. Burns, I appreciate your adding that we have to be specific about what that means because I think that's important, too.

Thank you.

Thank you, Madam Chair.

Ms. DeGette. I thank the gentleman.

The chair now recognizes Mr. Walden for 5 minutes.

Mr. Walden. Thank you, Madam Chair.

I've got a question for all the witnesses, and it is, who makes the decision as to whether or not tickets are transferable?

Ms. Howe, can we just start with you and --

Ms. Howe. Sure. Thank you for that question.

The event organizer is making that decision, so it's the --

Mr. Walden. Right.

Ms. Howe. -- artist, the sports team, the --

Mr. Walden. I understand.

Ms. Howe. -- Broadway producer.

Mr. Walden. Does everyone agree with that? Mr. Perez?

Mr. Perez. In our experience, it's the artists themselves. It's not even the event organizer. We've never issued nontransferable tickets that weren't the direct request of

an artist.

Mr. Walden. All right. Ms. Burns? Anybody disagree with this notion?

Ms. Burns. I have a disagreement, actually. I think what's important in answering the question about transferability is, is the ticket transferable on any platform, or transferable only within the platform of the primary issuer? I think there is a key distinction there.

Mr. Walden. All right.

Ms. Burns. In the latter case, the primary issuer is actually making the choice to make that ticket nontransferable, meaning --

Mr. Walden. Well --

Ms. Burns. -- if it can only be sold on that primary issuer's platform --

Mr. Walden. Oh.

Ms. Burns. -- then they are making the choice --

Mr. Walden. Yeah.

Ms. Burns. -- that it's nontransferable.

Mr. Walden. Ms. Howe, do you want to respond to that?

Ms. Howe. Can I clarify that?

Mr. Walden. Yeah, sure.

Ms. Howe. That's not accurate --

Mr. Walden. Oh.

Ms. Howe. -- for a couple things. One is there are very few cases where transfer is restricted. We don't --

Mr. Walden. What would those be?

Ms. Howe. -- make that decision. We don't make that decision. In the -- there's only been a few since -- and I just wanted to correct the record from the

opening statements. SafeTix does not equal nontransferable tickets. So, yes, we've invested in digital tickets, but we've invested in that because we want to shut down the fraudulent ticket market. It does have the capability to restrict transfer. It has only been used in a couple of situations -- Pearl Jam most recently, which I mentioned earlier -- and, just on this Monday, we ticketed the Kobe Bryant Memorial Service, and his wishes were to make sure that -- his family's wishes were to get those tickets at well-below face market prices and do that in a way that didn't create a secondary market. All that money went to charity.

So there are situations where restricted transfer is great for the consumer, and it's great for the content owner.

Mr. Walden. All right. Anybody else want to --

Mr. Vaccaro. If I can just interject that Connecticut has a very pro-consumer law, and it's the venue that ultimately has responsibility for the transfer of the tickets. So the venue is the bad actor if you can't transfer the ticket, not the promoter or anything. And Connecticut's law requires that you be able to transfer the ticket without giving any personally identifiable information to the venue to transfer the ticket, regardless if the venue is located in Connecticut or out of State.

Mr. Walden. All right. Mr. Fitts, you want to weigh in on that?

Mr. Fitts. Yes. Thank you. Transferability means competition, right. So marketplaces should have to compete with one another for that ticket on the resale marketplace. If a ticket is transferable, it means that different marketplaces can offer it and compete about services, compete over fees. The danger with SafeTicket, which sounds like a nice product, but it has dangers that eventually that become a walled garden for only Ticketmaster to operate. That's the danger here, and that's why we need the BOSS Act to protect transferability.

Mr. Walden. Do any of you oppose electronic ticketing? Just as a consumer, I kind of like that.

Mr. Vaccaro. The only thing I oppose is when you mandate it -- when you mandate it. For example, with the CCPA, it was mandated that, look, you need a mobile phone. You need an app.

Mr. Walden. Right.

Mr. Vaccaro. People came out that it was disenfranchising for people who didn't have it. Plus, a lot of the primaries came out that they gathered so much information from you, including your gender or change in gender, and they sold that information to marketers to help you market that. They gave you IP addresses of your customers. It's a very much concern with the military members. They also put in devices on those phones --

Mr. Walden. Now, who was doing this?

Mr. Vaccaro. -- on your location.

Mr. Walden. Who was doing this?

Mr. Vaccaro. Both AXS and Ticketmaster.

Mr. Walden. Do either -- do you want to respond to that?

Ms. Howe. Let me just clarify. Ticketmaster is not mandating the use of digital tickets.

Mr. Walden. Right.

Ms. Howe. It's our job to create the technology --

Mr. Walden. It's an option.

Ms. Howe. -- and let me give you some numbers. For the NFL, which was the first league to use SafeTix and digital ticketing at scale. There are some teams that have 95 percent digital tickets, and there are some that have 25 percent. That is a team

decision; that's not a Ticketmaster decision.

Mr. Walden. Okay. What about the information gathering and sale piece that he referenced?

Ms. Howe. Sorry. Can you repeat --

Mr. Walden. Everything from gender to IP addresses.

Mr. Vaccaro. I can supply you all the documentation. I gave it to your committee.

Mr. Walden. All right.

Mr. Vaccaro. Your staff members. It was on their website. It all came apart because of the California Consumer Protection --

Mr. Walden. All right.

Mr. Vaccaro. -- Act, Privacy Act, and they're saying, what information do you disclose? And the amount of information, if you want to transfer a ticket, is enormous. So you, as a consumer, before you even buy your tickets, you pay a cost. If you want to do mobile only and nontransferable, you have to give them so much information that they, in turn, sell to marketplace.

Mr. Walden. I just want her to be able to -- and I'm out of time, but can you just --

Ms. Howe. I'm sorry. That's not accurate, at least for Ticketmaster. I can't speak for other platforms. You're providing -- the only information you're providing is your name, your phone number, and your email address to be able to receive transfer, and we cannot do anything with that data. The only thing we can do is troubleshoot and fulfill that ticket. We can't market. So that's at least how we do it on our platform.

Mr. Walden. Thank you for letting them answer, Madam Chair. Thanks.

Ms. DeGette. Thank you. The gentleman's time has expired.

The chair now recognizes the chair of the Consumer Protection Subcommittee that will be considering the BOSS Act, Ms. Schakowsky.

Ms. Schakowsky. Thank you, Madam Chair.

Consumers continue to be negatively affected by practices occurring in the ticketing marketplace, and many of the practices have been well documented -- some of you have mentioned some of the concerns -- and have gone on for quite a while. I just want to go down the row and ask each of you, just yes or no, do you believe that we need more legislation to adequately protect consumers?

Ms. Howe, I'll begin with you.

Ms. Howe. Absolutely, we do.

Mr. Perez. Yes, we do.

Ms. Burns. Yes.

Mr. Fitts. Yes, we do.

Mr. Vaccaro. Yes, or enforcement of the current laws.

Mr. Choti. Without question.

Ms. Schakowsky. Or, or and?

Mr. Vaccaro. Or.

Mr. Choti. Without question.

Ms. Schakowsky. So I think there is pretty much agreement here that we need to do something, and the plan is that we will.

So now I want to hear firsthand from those in the industry about harms that impact consumers. Let me just ask, what do you believe are the most significant anticonsumer practices that are taking place in the industry? I don't have a lot of time. So, again, I'd like to go down the row, beginning with you, Ms. Howe. Your company,

Ticketmaster, is the largest primary seller of tickets. You begin. What do you think?

Ms. Howe. We're concerned about bots. 30 billion bots blocked a year is preventing tickets consumers from getting access. We're concerned with speculative ticketing, deceptive websites, and the lack of proper resale disclosures for consumers.

Ms. Schakowsky. Thank you.

Mr. Perez?

Mr. Perez. Bots, for sure, and deceptive websites, and speculative ticketing.

Ms. Schakowsky. Ms. Burns?

Ms. Burns. We think that ticket transferability reigns supreme. So anything that disables ticket transferability or anything that limits ticket transferability to a specific platform, that's harmful to consumers because it limits choice.

Ms. Schakowsky. Thank you.

Mr. Fitts?

Mr. Fitts. Ticket transferability is the key issue facing the industry today. That's why States like Colorado have passed laws requiring that tickets be transferable. It's necessary for the consumer to be able to compete -- I mean, to be able to see others compete for that ticket.

Ms. Schakowsky. Thank you.

Mr. Vaccaro?

Mr. Vaccaro. Ticket transferability, data sharing, and floor pricing.

Ms. Schakowsky. So you're the only one that has really raised the privacy issue, I think.

Mr. Vaccaro. I think there is a lot of consumers who aren't aware of what came out, and there were articles with it. A lot of reasons why the other folks don't raise it is some of the other folks, as part of their thing, they actively sell all that data, and, contrary

to what they said, I gave your staff the links.

Ms. Schakowsky. Okay.

Mr. Vaccaro. It says: We market to this. We market -- we sell your gender. They put it right in there. Your IP address --

Ms. Schakowsky. I heard that. Thank you.

Mr. Vaccaro. Okay. Okay.

Ms. Schakowsky. Okay. And Mr. Choti?

Mr. Choti. Bots, deceptive websites, and data sharing and utilization. Our model is different than most models in the marketplace today where our client, our venue's data is their data, and we don't share that with any third party or ourselves.

Ms. Schakowsky. Great. I'm going to ask Ms. Howe and Ms. Burns, but others, if there is time, can respond. The FTC has a role to play, or could play, and so I wanted to just ask you what the FTC has also held -- held a workshop and what you think that the Federal Trade Commission can do to protect consumers. Ms. Howe?

Ms. Howe. Thank you for the question.

Most important thing is to enforce the 2016 BOTS Act. It is an arms race. We invest a lot of money, but without stronger enforcement, it's going to be very difficult to fundamentally solve that problem.

Ms. Schakowsky. Ms. Burns? FTC.

Ms. Burns. Yeah, I agree with regard to the BOTS Act, which Stubhub was a strong supporter of, that more can be done with enforcement and believe that's a cooperation between Congress, the FTC, and DOJ. Also believe the FTC can do more to support and maintain competition, healthy competition, within ticketing. It has enforcement authority there as well.

Ms. Schakowsky. Okay. Anybody else that wants to just briefly comment on

the role of the regulator, Federal Trade Commission?

Mr. Fitts?

Mr. Fitts. If I may, the FTC should also be concerned with holdbacks and that practice, and they should take a look at that perhaps, but also transferability and the ways that tickets are exchanged between exchanges.

Ms. Schakowsky. Thank you.

Mr. Vaccaro. I would -- I would -- just adding to that, I would say that Commissioner Slaughter from the FTC made one mandate. She either -- said: People in this industry, either you fix the hidden prices, or the FTC will find a solution for you.

That was the main mandate. I think we did it. I believe that Stubhub did it with the toggle. So now we have some players. Other ones haven't.

Ms. Schakowsky. Thank you. My time is up, and I yield back. Thank you.

Ms. DeGette. Thank the gentlelady.

Chair now recognizes Mr. Burgess for 5 minutes.

Mr. Burgess. Thank you.

And I actually want to go back to something that Ranking Member Walden was talking about, and that is the issue on the issuing of digital tickets and moving to all digital tickets, and then how does the nondigital individual interface with the ticket-selling world?

Mr. Fitts and Ms. Burns, maybe you can address that. Going to all -- everyone has to buy their ticket on a smartphone, but there are still people out there who don't have the technology.

Mr. Fitts. I'll take that. Yeah. I mean, the problem with requiring a smartphone is it does eliminate individuals who don't have a smartphone from attending events. I think, without a paper option, that could, you know, foreclose people from

attending. I think digital tickets could be a positive, but, again, there is a danger that transferability is shut off simply with the flip of a switch, and then you have a closed garden, a walled garden, and people aren't able to compete.

Mr. Burgess. So Ms. Burns?

Ms. Burns. I agree with that. I don't have anything to add there.

Mr. Burgess. So, Ms. Howe, you looked like you wanted to say something.

Ms. Howe. Yeah. Let me just clarify. With digital tickets, it's always an option for a fan to get a paper ticket at the box office. So, if they don't have a smartphone, they can always work with customer service, and they can get that at the box service.

Mr. Burgess. Yeah, but then they've got to stand in line in the cold outside the ticket window, right? They should do it with a smartphone. Okay.

Mr. Vaccaro, you brought up an interesting point about the collection of digital data, and you brought up the California law and State law on privacy and how that is now beginning to impact -- I guess for all of you, impact your business. Have you had any difficulty meeting the demands in the European side of things with the GDPR? Has that surfaced as an issue for any of you?

Mr. Vaccaro. We comply with them. It was an issue. It was a cost to us. I think ultimately consumers will benefit from it, and I think consumers are much more wary now about their data and what's it used for. So, as far as us as -- no, we comply with it. We did it. It was expensive, but we did it.

Mr. Burgess. Has anyone found difficulty with complying --

Ms. Howe. No.

Mr. Burgess. -- with either the California law or the GDPR? Yes, sir, Mr. Perez?

Mr. Perez. No. In fact, GDPR set up very well for compliance with the California law. And just for the record, we do not sell data to anyone. We provide the

data to our venues so they can service all fans when they show up at the event, regardless of where they purchased the ticket. It's a ability to provide customer service. With paper tickets and PDF tickets, we have no idea who these people are, where they got the tickets, and we cannot help them, and that really pains us.

Mr. Burgess. Let me just ask you a question, because privacy is going to be something that may -- that the Energy and Commerce Committee writ large is going to have to deal with it. Does anyone have any thoughts and advice that you would give the committee when we're dealing with how to reconcile what's happening in California with the rest of the country? Is a national standard something that to which we should aspire?

Mr. Vaccaro. I would say a national standard would make it much simpler on businesses that you don't have to comply with 50 State laws on privacy, and there is an argument to be made that California's law gives an advantage over California businesses rather than out-of-state businesses because the way they apply the law. But, yes, you're right, a national standard, much easier for businesses to comply with rather than dealing with 50 different States.

Mr. Burgess. Yeah, it's always been my thesis that the Founders, when they wrote the Constitution, the Commerce Clause was written with the idea that eventually we'll get to a world of e-commerce where we want to be able to sell things across the several States without boundaries.

Yes, Mr. Fitts?

Mr. Fitts. I think, though, there is a privacy issue here in our industry, and that's a practice, I think, sometimes engaged in by primary marketplaces where, if a ticket is sold on my marketplace, it's digital, they require my customer to log into their marketplace to download the ticket. That creates a relationship that my customer

didn't intend, and it's a forced transfer of PII. So, I mean, that's concerning. I look to the BOSS Act to address that.

Mr. Burgess. And you think it would be addressed in the BOSS Act.

Mr. Fitts. I think the language on that point could be a little stronger, but I think that -- I see that as friction to transferability that exists right now that should be eliminated.

Mr. Burgess. I agree.

I'll yield back, Madam Chair.

Ms. DeGette. Thank the gentleman.

Chair now recognizes the gentleman from California, Mr. Ruiz?

Mr. Ruiz. It happens to me all the time.

Thank you, and thank you to the witnesses that are here today.

One of the primary economic drivers in my district is tourism: Palm Springs, California; Coachella Valley. People who fly into Palm Springs from around the country often will buy tickets to shows or concerts during their time in the Coachella Valley. Many of you may have heard of the Coachella and Stagecoach festivals that attract hundreds of thousands of people each year.

Starting next year, tourists will have a new attraction: an NHL hockey team based in Palm Springs. When people visit my district for these events, they spend money at our local businesses and patronize our hotels and restaurants. I want to be sure that their experience is a good one, and that starts with the ticket-buying process.

One practice that is particularly concerning to me is the use of deceptive white label websites. These ticketing websites deceive consumers into believing the websites are affiliated with a venue, team, or artist when, in fact, no such affiliation exists.

Ms. Howe, in your testimony, you contended that, quote, some secondary

marketplaces routinely use or work with these deceptive websites, unquote. How prevalent are deceptive white label websites and how are they harming consumers?

Ms. Howe. Thank you for the question.

Last year alone, we worked with Google and other ISPs to shut down over 30 of these deceptive websites, and it's incredibly misleading. They're posing as official websites of the venue, the artist, the team, and you're pushing a consumer to a secondary site oftentimes that has been --

Mr. Ruiz. How prevalent are they?

Ms. Howe. I don't know the exact number, but --

Mr. Ruiz. And how would you say they harm consumers?

Ms. Howe. They are -- they're resell sites. So, when you're pushing -- a consumer thinks they're buying from an official box office, an official team site, and you're posing as --

Mr. Ruiz. And it costs more?

Ms. Howe. -- a resell site, it costs more, absolutely.

Mr. Ruiz. Thank you.

Mr. Vaccaro, the FTC brought an action against your company in 2014 alleging that it licensed tools and services to clients who created websites that misrepresented affiliations with certain venues. For example, the FTC alleged that a TicketNetwork client created a web page that appeared to be affiliated with a Radio City Music Hall. According to the FTC's complaint, the client advertised the site as the, quote, official ticket source online, unquote, for Radio City Music Hall tickets even though the website had no affiliation with the venue.

Mr. Vaccaro, your written testimony noted that TicketNetwork entered into a consent decree with the FTC that contains, quote, clear and concise rules, unquote, on

how to operate white label websites that are not deceptive.

Mr. Vaccaro, what are you doing to ensure that TicketNetwork's clients do not create websites that misrepresent an affiliation with the venue?

Mr. Vaccaro. Thank you. That's great.

The first thing we do is the FTC laid out some pretty clear and concise rules to follow: Don't use the word "official." There was --

Mr. Ruiz. How are you implementing those recommendations?

Mr. Vaccaro. We told any websites who buy that from us not to do it.

Mr. Ruiz. Do you follow up and check with them?

Mr. Vaccaro. We follow up as much as we can, but we also have affiliates --

Mr. Ruiz. As much as you can, what does that mean? You don't, or you do?

Mr. Vaccaro. We do follow up. I don't know the exact answer, the procedure of how we follow up or how we review each of them, but I can get back to you on that.

Mr. Ruiz. Okay. I think that will be important because that's what this whole topic is about.

Mr. Fitts, I understand that your company also licenses tools and services to third-party ticketing websites. In your testimony, you described how Vivid Seats screens potential licenses and requires them to comply with the FTC's consent decree with TicketNetwork.

Mr. Fitts, given these precautions, are you certain that your licensees are not engaged in deceptive white label practices.

Mr. Fitts. We agree to --

Mr. Ruiz. You've got to turn it on.

Mr. Fitts. I'm sorry. I'm not on. We agree that false impressions left with consumers about affiliations does not exist.

Mr. Ruiz. So how certain that -- so you're pretty certain that your licensees are not engaged in these deceptive white label practices?

Mr. Fitts. Exactly. Our licensees do not deceive anybody.

Mr. Ruiz. Ms. Burns, do you believe the FTC is sufficiently deterring companies from engaging in deceptive white label practices, or do you think more needs to be done?

Ms. Burns. I think the FTC has done a good job of working with industry to crack down on white label sites. However, I think more can be done.

Mr. Ruiz. Like what?

Ms. Burns. Consistent policing, working with industry to identify them --

Mr. Ruiz. Okay.

Ms. Burns. -- and taking swift action.

Mr. Ruiz. All right. Mr. Choti, same question: Do you believe the FTC is sufficiently deterring companies from engaging in deceptive white label practices, or do you think more needs to be done?

Mr. Choti. I think more needs to be done. I've seen a decrease in white label solutions out there. We as a ticketing company go out and routinely see if there are people with deceptive URLs and work with Google, likes of Google to have them shut down.

Mr. Ruiz. Thank you. I yield back.

Ms. DeGette. I'm sorry about that.

Chair now recognizes the gentleman from Virginia for 5 minutes.

Mr. Griffith. Thank you, Madam Chair.

In preparing for this hearing, Mr. Perez, my team had me visit ticketflipping.com. Not something I would ordinarily do, but this is a website that sells training materials to help people become ticket brokers. On the site, they sell a plug-in that gives a ticket

broker the ability to know how many tickets are available for AXS, your company, events, and specific data about remaining tickets. It seems to me that this information must be pretty valuable to brokers if they are designing plug-ins to monitor sell rates on your website.

What is the value of this information, and, in your opinion, is there a benefit to disclosure of this information by venues?

Mr. Perez. In my opinion, there is no benefit of this disclosure to the consumer. I think that the brokers that are using that information are trying to gauge supply and demand so they can maximum profits, and what we're seeing now -- when we talk about inventory disclosures, many of us on the panel today have moved to seat maps where we fully disclose all the seats available in a seat map.

Almost instantly, we saw, when we did that, people scraping every single listing on our site, recreating a site that does not own any of those tickets at a higher price, and, when they close that transaction at a higher price, would come to our website and purchase the actual ticket.

In our minds, that's complete and total deception and fraud, and so we're concerned that providing the bad actor and broker community a roadmap with how to maximum profits is going to harm consumers.

Mr. Griffith. Well, what if you don't give them the actual seats, but you just tell them how many is available? In other words, you know, we still have 3,842 seats left? Does that -- that -- because I --

Mr. Perez. The other -- so --

Mr. Griffith. As we've seen, I would like to see that information, too, because, if I'm trying to decide whether I want to buy now or wait until later -- I'm not sure I can attend -- that would help me decide whether I'm buying today or buying next week.

Mr. Perez. Yeah, correct.

The other thing that we've seen is, as inventory gets low, there are a number of entities out there that, overnight, come in and scoop up all the tickets. So you'd be selling 10, 20 tickets a day, and then, in one night, you'd sell 200 tickets, the show would be sold out, one entity would try and control those tickets and now artificially raise the resale market.

So, again, we share -- we have the same concern in that particular situation. I think what is probably easier to accomplish and more palpable for everybody is the total number of tickets at the outset --

Mr. Griffith. Uh-huh.

Mr. Perez. -- and we talked about it earlier by the way of, for sports teams, we know how many seats are in the venue. For concerts, we know roughly how many seats are going to be available subject to production realities.

Mr. Griffith. Do you all have the capability to monitor when somebody is selling the tickets for an upscale? And I think, Ms. Howe, you mentioned earlier some prices that was going on in Colorado. Can you all monitor what the increase in the price is over what it was at the -- on the face value of a ticket? You can go ahead, either one of you.

Mr. Perez. We try. There are so many websites out there that it's almost impossible to monitor every single one of them.

Mr. Griffith. All right.

Ms. Howe. That's right.

Mr. Griffith. All right. Now, Ms. Howe, in ticketing, it seems consumer complaints hit a peak when they are unable to access tickets. How often -- I think it would help the committee. How often do you have sellout events? How often does the demand exceed the supply?

Ms. Howe. Thank you for the question.

So, if you look at last year, there were about 60,000 music events. 30 -- only 30 percent of those sold out, and, if you look at the number that sold out within the first 24 hours, it was about 2.5 percent. So there is very, very high-demand events, but it's a relatively small percentage of the events.

Mr. Griffith. And what -- can you explain to us what technologies your company is using to try to develop to reduce the presence of bots when you're selling tickets to these events that are expected to be high-demand events?

Ms. Howe. Absolutely. As I mentioned in my opening remarks, we're blocking 3 billion bots a month, and, this year, we expect to block close to 30 billion.

We are doing a number of things. We are leveraging state-of-the-art technology to block bots on the perimeter of our marketplace, but we're also investing in smart, innovative products that are letting fans get to the front of the line -- in front of both bots and professional brokers, so we're giving them fair access.

Mr. Griffith. In those events, if people are willing to pay a higher price, why not have the face value be higher as well in the first place, and wouldn't that benefit the artists more?

Ms. Howe. It's a great question, and we have a terrific product that we've launched a few years ago. It's a platinum product which effectively allows the artist to do exactly that. So, for those best seats in the house, if the artist wants to recapture that value instead of it going to a middleman, they're able to do that effectively.

Mr. Griffith. All right. And I appreciate it, and I yield back.

Thank you, Madam Chair.

Ms. Howe. Thank you.

Ms. DeGette. The chair now recognizes the gentlelady from New Hampshire for

5 minutes.

Ms. Kuster. Thank you very much, Madam Chair, and I appreciate all of you being here for this hearing today. I want to get back to the transferability question. I was just poised to do it when my colleague reclaimed his time, but, Mr. Fitts, proponents of placing restrictions on ticket transferability have argued that those restrictions help keep ticket prices low, but, in your testimony, you argue that transferability restrictions, quote, would leave fans with fewer choices and higher prices.

Do you think that proponents of transferability restrictions truly believe that these restrictions keep prices lower for consumers, or is there something more nefarious underlining this position?

Mr. Fitts. I wouldn't necessarily characterize their testimony, but I would say that transferability leads to competition, and so, when a ticket is transferable, multiple marketplaces need to compete over it, and so that means doing things like having a 100 percent buyer guaranty, a call center available at extended hours. They have to compete for those issues.

They also need to compete on price, of course, because, if a fee is too high in one market, it won't sell. So transferability breeds competition. The danger of the lack of transferability is it cuts it off and restricts it to one player.

Ms. Kuster. Which would result in higher prices for consumers presumably?

Mr. Fitts. Presumably it could lead to higher prices and lower service levels.

Ms. Kuster. And lower service. Okay.

Ms. Burns, beyond controlling ticket price, proponents of nontransferable tickets also contend these restrictions enhance event security and limit fraud, but in your testimony, you called these arguments, quote, a smokescreen designed to limit consumer choice.

How prevalent is fraud in the secondary ticket marketplace, and why do you think concerns about fraud are a smokescreen or a bogus argument?

Ms. Burns. I can't speak to numbers for the entire industry. I just know what the numbers are for Stubhub, and I can tell you they're incredibly low, far less than one-half of a percent of tickets subject to fraud on our site.

So we believe it's a smokescreen as justification to hold the consumer captive, again, with the primary ticketer, who also has a secondary platform -- if they want to transfer that ticket within the platform -- again, I think it's important to distinguish between is the ticket nontransferable, or is it nontransferable outside the primary issuer's platform?

But I think it's a smokescreen because the primary issuer doesn't do any background check on the buyer, right, nor do they even know who that buyer may be taking to an event as their guest. They could be taking multiple people, and their identity is unknown.

So, again, it's why I think it's -- it's an excuse, and it's not a valid justification.

Ms. Kuster. Thank you.

In addition to outright transfer prohibition, some ticket issuers permit resale, but only through certain processes. In its response to the committee, Stubhub stated Ticketmaster is increasingly requiring consumers who buy resale tickets on non-Ticketmaster sites, like Stubhub, to complete their purchase through Ticketmaster's website or app.

Do you think this is a genuine privacy issue, or, again, do you think this workaround is just to capture your customer? What do you think the purpose of that is, and then we'll let others respond?

Ms. Burns. Yeah. I think it's an anticompetitive issue, but it raises a privacy

issue in the process, right, because the consumer who purchases their ticket off Stubhub or any other platform, when Ticketmaster is the primary issuer, that consumer has to go through Stubhub in order to receive their -- or -- sorry -- through Ticketmaster in order to receive their ticket, and, in that process, they download their app, they register an account, hand over their personal data. Yet, at the time of the purchase, they may have had no intention of doing any business of any sort with Ticketmaster.

Ms. Kuster. And can I just guess as a consumer that, then, they get a flood of emails marketing to them from both Stubhub and now Ticketmaster as well?

Ms. Burns. You would have to ask that question of my colleague here, Ms. Howe.

Ms. Kuster. Anyone want to comment from Ticketmaster?

Ms. Howe. I'm happy to comment.

Ms. Kuster. Sure.

Ms. Howe. When a ticket is -- if a digital ticket is bought on another platform and fulfilled within Ticketmaster, we have no rights to market to that consumer. The only thing we can -- the only information we can use is to fulfill that ticket and, if there are issues, customer service issues, that's how we use that information. We cannot market to that consumer. We cannot sell that data.

Ms. Kuster. What's the information that you require at that second step?

Ms. Howe. Name, phone number, email address.

Ms. Kuster. Okay. Thank you.

I yield back.

Ms. DeGette. Gentleman from New York is recognized for 5 minutes.

Mr. Tonko. Thank you, Madam Chair, and welcome to the panel.

I'm proud of all of the work my home State of New York has done to address

consumer harms in the ticketing industry. A 2016 report by the New York attorney general found that brokers use illegal bots to seize large blocks of tickets. And I'm proud to have helped passed the BOTS Act in 2016, which made the use of ticket bots illegal. However, several of our witnesses' responses have indicated that bots still exist within the marketplace, so we must keep working to ensure illegal bots are not stealing tickets away from the public.

But, in addition to bots, the report also found that consumers often lack access to tickets because many tickets are put on hold for industry insiders and presale events.

So, Mr. Fitts, your response to the committee stated that -- and I quote -- perceived scarcity at the on-sale is not caused by bots. It is primarily caused by holdbacks engineered by the ticketing company that operates the on-sale process, close quote.

Mr. Fitts, how serious of a problem are holdbacks, and why should consumers care about this practice?

Mr. Fitts. Well, holdbacks are a concern for consumers because the consumer is asked to make a decision in a high-pressure situation on an on-sale for concert where they don't have full information. It's a very different thought if there is 80 tickets left versus 8,000. So that's holding back a key piece of information from the consumer that they could really use.

And so, when they report as sold out, the consumer might not understand that there is more tickets coming later, and they may have paid a different price, but the sellout may not be legitimate.

Mr. Tonko. We're hearing that some of it might -- that holdbacks might be a vast minority of the tickets that go for sale. Is that true? I mean, the report also indicated that it might be as high as 50 percent.

Mr. Fitts. Yeah. I know that I've seen media coverage, like the Toronto Star, for example, that showed something much more extensive than the small percentage. So, based on that report, I disagree.

Mr. Tonko. Ms. Burns, one way to address holdbacks is to increase transparency around ticket availability. In your testimony, you stated that this information will -- and I quote -- create a clearer picture of event accessibility and help to inform fans' decisions on if and when to buy tickets.

How would increasing transparency around ticket availability help consumers?

Ms. Burns. Because you would know how many tickets are available at the event, and it may inform your decision as to whether purchase at the on-sale or to wait.

Mr. Tonko. Thank you.

And, Ms. Burns, some have argued against disclosing information on ticket availability. For instance, Ticketmaster contends that disclosing this information would benefit brokers and bots by -- again, quoting -- making it easier for them to target supply and manipulate the market.

So, Ms. Burns, do you buy this argument, or do you believe that we should err on the side of more disclosure?

Ms. Burns. No. I think the argument is disingenuous in that, you know, the purpose of the holdback is, again, to create a scarcity of supply. So, you know, as tickets are trickled out over time, again, it's designed to maintain prices or potentially increase prices as you near the event.

Mr. Tonko. Thank you.

Mr. Vaccaro, you wrote in an op-ed in 2016 entitled "More Transparency in Ticket Sales and No More Bots," in that piece, you argued in favor of disclosing ticket availability and stated, and I quote: If consumers knew the truth, they would no longer be fans.

So why should there be more transparency surrounding ticket availability, and what types of disclosures would be most helpful for consumers?

Mr. Vaccaro. So I'm not an economist, and I don't pretend to be, but I know that, when I speak to them, they say many industries do a similar thing: They create a scarcity of supply, which effectively moves a supply curve to the left, which raises the equilibrium price, all right. So a lot of monopolies do that. A lot of other people do that by creating that scarcity of supply.

And when you do those multiple presales, you only see a few amount of tickets, a lot of people don't even realize how many people in the -- are in the presale. So you manipulate consumers to think there is a scarcity; they buy at higher numbers. That's why, over time, ticket prices are going down; they're not going up.

Mr. Tonko. And, with the holdbacks issue, is it as large a number of tickets as some have reported, or is it a very slight number? Is it -- can it reach 50 percent?

Mr. Vaccaro. I would say it could -- well, let me clarify that because I think it's an important distinction to make. In most sports teams, they disclose the amount of tickets, all right? The real issue that we're really talking about here is more or less concerts, okay?

So, in concerts, it is amazing not only how many tickets they hold back, but there is also venues that have unmanifested seats that they sell that aren't even available to the public that are unmanifested. So the holdback number is even higher than what insiders report because they don't even count the nonmanifested tickets as tickets that are going on sale.

Mr. Tonko. So it can approach 50 percent?

Mr. Vaccaro. Yes.

Mr. Tonko. Thank you very much.

With that, Madam Chair, I yield back.

Ms. DeGette. Thank the gentleman.

Chair now recognizes the gentlelady from New York, Ms. Clarke, for 5 minutes.

Ms. Clarke. Thank you, Madam Chairwoman, and thank you, Ranking Member, for convening this very important hearing. I want to thank our witnesses as well for your testimony and testifying here today.

In my district in Brooklyn, New York, I have both the Barclays Center and the historic Kings Theatre, which draws crowds from across the borough, city, and tri-state area. Whether people are taking their families to see a Nets game or a concert, it is very important to me that the consumers are protected against harmful practices which have filled the marketplace for far too long.

Having said that, I want to circle back to an issue that was mentioned earlier, Ms. Howe. Can you please clarify something you said for me, and that is: I'm trying to determine on what -- what you do with consumer data you receive from customers who buy tickets on other platforms like Stubhub, and what is it that you cannot do with that data?

Ms. Howe. Thank you for the question.

The only thing we can -- the only information we receive is the consumer's name, email, and phone number, and the only thing we can do with that is fulfill the ticket, and, if there is an issue fulfilling that, we use it for customer services. So all consumers have to opt in for marketing purposes. That's regardless of what platform they're buying on.

Ms. Clarke. So there is nothing that you can do outside of just basically obtaining the data; is that what you're saying?

Ms. Howe. I'm saying that we cannot use any information that is acquired from another platform for any marketing purposes, correct.

Ms. Clarke. Okay. Very well.

According to a 2018 article in the New York Times, Live Nation operates more than 200 venues worldwide, promotes more than 30,000 shows around the world, and manages over 500 artists. At the same time, Ticketmaster, which merged with Live Nation in 2010, handles tickets for 80 of the top 100 arenas in the country, and sold more than 500 million tickets in 2018.

After the merger between Live Nation and Ticketmaster, Live Nation is arguably the most powerful company in the entertainment industry. In fact, an article in The Economist called Live Nation a, quote, vertically integrated behemoth, end quote. The New York Times article I quoted from above also contained alarming claims about how Live Nation is wielding its market power.

Mr. Perez, according to the article, Live Nation threatened to bypass shows at venues managed by your company unless the venue used Ticketmaster as the ticketer for the venue. To your knowledge, has Live Nation ever threatened to retaliate against a venue if it doesn't use Ticketmaster as its platform, Mr. Perez?

Mr. Perez. I have not heard it. The threat has not been made to me personally. I do know people that have had comments made to them.

Ms. Clarke. Ms. Howe, are you aware of any instances where Live Nation or any of its affiliates threatened to bypass a venue unless Ticketmaster was used as the primary ticketing platform?

Ms. Howe. I'm not aware of any. You're referring to -- as many as of you know, we just agreed to extend the consent decree with the DOJ, and we believe that that will take this issue off the table. We will compete on our own innovation and our own right, not because of content.

Ms. Clarke. Okay. In response to The New York Times article, Ticketmaster's

president stated that its industry, quote, is not the -- not the result of any unfair advantages resulting from being a part of the Live Nation entertainment, end quote.

Ms. Burns, in your testimony, you stated that, in recent years, Stubhub's mission has been, quote, complicated by various anticompetitive, anticonsumer practices in the ticketing industry, end quote.

How does Ticketmaster's dominance contribute to the anticompetitive and anticonsumer practices in the industry?

Ms. Burns. I wish we had more time than we do to discuss this, but we -- we have had reports to us of experiences of retaliation if Stubhub was used as the ticketing partner. As -- but what's important to understand is, you know, Ticketmaster, in maintaining its dominance, there's three things really. They're, you know, 80 percent of primary ticketing share. They operate or control 80 of the top 100 venues in this country, and they -- Live Nation, their parent, is the promoter for over 400 artists.

So, when you have that kind of control over the industry, it is very difficult, once you -- once you start and do business with them, to ever exit this ecosystem is how we're referred to -- an ecosystem that Ticketmaster has created. That's exactly it. They've created this ecosystem that is very difficult to leave.

And so, as a result, it is hard. We have had experience in trying to enter the primary ticketing segment and have experienced difficulty as a result of, you know, this dominance in the market.

Ms. Clarke. Very well.

I yield back. Thank you very much, Madam Chair.

Ms. DeGette. Chair now recognizes the gentleman from California, Mr. Peters, for 5 minutes.

Mr. Peters. Maybe just to follow up, is it -- so I've heard some discussion of

whether tickets should be transferable. It's obviously a big issue. Is it ever appropriate to hold back any tickets from being transferable or to do kind of the off-the-manifest kind of things? Is that something that is ever appropriate? Mr. Perez?

Mr. Perez. I'll give you a specific example. In the State of Colorado, there is a venue that we ticket, Red Rocks, and the first row of that very iconic venue is reserved for ADA seating --

Mr. Peters. Right.

Mr. Perez. -- and because of laws, we're unable to verify people's disabilities, and, as part of the consent decree with Denver Arts & Venues and some advocacy groups, we're actually able to make those tickets nontransferable to have a greater influence over those tickets being resold and making sure that the people with disabilities are the ones who are actually using it.

Mr. Peters. Okay. How about if the venue or the band wants to hold back tickets for itself? Is that something that could be nontransferable? Is it ever appropriate for that to be nontransferable? Ms. Howe?

Ms. Howe. There are holds, and then there is the issue of should that ticket be nontransferable. Artists can hold back inventory for important purposes --

Mr. Peters. I see Mr. Vaccaro seems to be objecting to that kind of practice. Is that true, or --

Mr. Vaccaro. Well, just for clarity's sake --

Mr. Peters. Is that a transparency issue?

Mr. Vaccaro. I think that, as far as holdbacks, that bands and the artists should be able to hold back whatever tickets they want, just as long as they disclose them to the public. So, as far as holdbacks, it's that.

I think the problem with transferability is it gets to a slippery slope on what could

be transferred or not, and, you know, a classic example is Ed Sheeran said his tickets aren't transferable, nobody can make it to the show, the tickets were selling for less than face value. Even though he had a face value exchange, he wouldn't let consumers transfer them, and, especially when you get to transferability --

Mr. Peters. I understand that, but I'm sort of thinking there is a difference between 100 percent nontransferable and 5 percent nontransferable.

Mr. Vaccaro. I agree with you.

Mr. Peters. Okay.

Mr. Vaccaro. I think you're correct; it's a huge distinction.

Mr. Peters. Is that a line that you think Congress could draw in an effective way?

Mr. Vaccaro. I think it would be very difficult without -- very difficult to do unless it was very tightly written so that people couldn't use that to advance their, let's say, monopoly on tickets. That's the problem.

Mr. Peters. Okay. Maybe a question for Ms. Howe. You know, we were just -- Ms. Burns was pointing out how many venues you own in our district. House of Blues, the Padres, Humphreys, The Civic Center. Some of these venues have experienced this kind of fraud, and they seem to have little recourse against brokers and platforms that engage in this deceptive behavior.

What are the remedies, and what suggestions do you have for us to address this kind of problem?

Ms. Howe. Thank you for the question.

A couple of things. One is, as I mentioned in my opening remarks, we're fighting bots every month and every day. We're blocking -- we'll block 3 billion every month, 30 billion this year. But, more importantly, we need to figure out how to change the conditions at on-sale. So we're investing in products like Verified Fan and Smart Queue

that allow real fans to actually get those tickets instead of brokers and secondary markets.

We're also investing in digital technology that shuts that fraudulent ticket market down, so, instead of the anonymous barcode that can be -- you can take a screenshot and send it to somebody else, and it's a fraudulent ticket, that digital ticket is now tied to your identity.

Mr. Peters. Ms. Burns, you had made -- you're making an anticompetitive argument. Does this kind of vertical integration for security make the challenge a little more difficult for you?

Ms. Burns. Absolutely. They control the supply chain end to end, starting with artists, you know, the venue.

Mr. Peters. So, given the concern about security, how would you suggest we draw the line at -- between primary and secondary?

Ms. Burns. I'm not sure I'm tracking the question.

Mr. Peters. So Ms. Howe has made an argument that, because she's issuing the tickets --

Ms. Burns. Uh-huh.

Mr. Peters. -- she has a way to make sure that they're followed kind of through the course of the transfer.

Ms. Burns. Uh-huh.

Mr. Peters. That, again, seems to root transferability into the same concern you had before.

Ms. Burns. And I think it's -- I think it's possible to use technology. You know, we should explore the use of technology in order to track the ticket --

Mr. Peters. Right.

Ms. Burns. -- you know, prevent fraud.

Where we take issue is how Ticketmaster is doing it and through the use of SafeTix technology is not for that purpose. We don't think it's, you know, for the legitimate purpose of cracking down on fraud because, again, remember, they don't do any sort of background check on the --

Mr. Peters. -- member.

Ms. Burns. -- individual. They don't know who else is going, like -- so, in terms of, you know, tracking those issues, it's just not used for that purpose.

Mr. Peters. You think they're two different issues?

Okay. My time is expired, but I appreciated all the witnesses being here, and I look forward to working on this.

I yield back.

Ms. DeGette. I thank the gentleman, and I'm very pleased to recognize the gentleman from Texas, Mr. Flores, who is not a member of this subcommittee, but we're always happy to have you here, and now you're recognized for 5 minutes for questions.

Mr. Flores. Thank you, Madam Chair.

I have some questions for Ms. Burns with Stubhub.

Let me give you the background first. There are situations where a customer buys a ticket from an event sponsor, and then, later on, they decide they can't use that ticket, and then they use your platform to resell the ticket because of an arrangement that you had with the original ticket -- the original event sponsor, and there is a fee charged for that resale in the form of a reduction amount of proceeds that are received by the ticket seller.

So how much is that fee?

Ms. Burns. The fee that's charged to seller -- so there is no fee charged to the

seller to actually list on our site. There is a fee that's charged on the sell, and it depends on who the seller is.

Mr. Flores. Okay. And then the -- how is that fee set?

Ms. Burns. Well, again, the fee is set based on who the seller is. So we have agreements with our sellers, and so --

Mr. Flores. But the seller is the customer. Are you talking about the event sponsor is the seller in this case? So let's say I buy a ticket --

Ms. Burns. Right.

Mr. Flores. -- and I pay the full price for it from the event sponsor.

Ms. Burns. Yep.

Mr. Flores. And Stubhub has never been part of the transaction, and then, if I want to resell it, the only way I can resell it is because of some arrangement that the event sponsor has with Stubhub. I sell the ticket, and then there is this big discount taken, this big fee that's taken off, and I get the net proceeds. So who sets that fee?

Ms. Burns. Who sets the fee is Stubhub sets the fee with that seller.

Mr. Flores. Okay. And then does the original event sponsor receive part of that fee?

Ms. Burns. I don't know.

Mr. Flores. Okay. Would you supplementally respond to that for us and let us know?

Ms. Burns. Absolutely.

Mr. Flores. And, if yes, why does the original event sponsor receive part of the fee for something they've already received full value for is the question?

And then the next question is, is there any disclosure to the customer that part of that fee is going back to the original event sponsor that the customer bought the ticket

from?

Ms. Burns. Okay. We'll follow up with you.

Mr. Flores. You'll get back with us on that?

Ms. Burns. Yeah, I'm happy to do that.

Mr. Flores. And if there is any disclosure -- if not, why not, doesn't the customer deserve to see what that is?

And then the last question would be: What value to the customer is there for paying an additional fee back to the event sponsor?

Ms. Burns. I just want to make something clear. As it relates to fees, we are fully transparent as to fees that are charged to the customer on our site, right? The customer knows, throughout the search and the sale and the -- and the sale, the checkout process, what fees they are being charged. At no point, when they purchase a ticket, do they not know what fees they will be charged at the time of payment.

Mr. Flores. Right. And I'm not saying there is no transparency in terms of the amount of the fee.

Ms. Burns. Uh-huh.

Mr. Flores. It is just -- a 15 percent fee for a \$100 ticket seems pretty expensive when -- particularly if the original event sponsor is getting part of that fee. There is getting some sort of a kickback for part of that fee. So we need to figure that out because I've noticed, in some situations, the fee was 10 percent one year, and then, the very next year, it's 15 percent. So we need to figure out why did that just suddenly -- why did the amount of the fee go up 50 percent in one year?

And then one just sort of an editorial comment for all of you in this space, and that is that there is -- as you've heard from, I think, most everybody that's testified or asked questions, there has been a -- there is a lot of customer angst about what happens

in this space, and I think it would behoove all of you that, when you're designing your processes, your policies and pricing and procedures, that put yourself in the customers' shoes, look at it through the customers' eyes, and I think, if you do that, you wouldn't be in front of this panel today.

So thank you. I yield back the balance of my time.

Ms. DeGette. Thank the gentleman.

Chair just has -- I just have one more question to clarify.

Ms. Howe, you had said several times that Ticketmaster, when it takes the data, it takes the name, the email address, and the phone number of the purchaser. Is that right?

Ms. Howe. Correct.

Ms. DeGette. And that it doesn't resell, or it doesn't market to those people?

Ms. Howe. We are not -- only if a consumer opts in do we have the right to market to them.

Ms. DeGette. Okay. What about if a person puts their -- is trying to purchase the ticket on one of the reselling platforms like Stubhub? Is the -- is Ticketmaster's policy the same way if they -- only if they opt in?

Ms. Howe. Correct. They can only -- they opt in, and it's even more restrictive if it's bought on another platform.

Ms. DeGette. What's the --

Ms. Howe. In other words, we can only use that information to fulfill the ticket and provide any service needed to do that.

Ms. DeGette. Okay. Thank you.

And I want to thank the entire panel. This was actually a very, very informative hearing for everybody on the committee on both sides of the aisle, and now it's going to

go over to the Consumer Protection Subcommittee for action on the BOSS Act, but this was really useful for us.

And I'd like to insert into the record by unanimous consent the report by the New York attorney general on the ticketing industry entitled "Obstructed View: What's Blocking New Yorkers From Getting Tickets" and the report by the Government Accountability Office entitled "Event Ticket Sales Market Characteristics and Consumer Protection Issues" and, in addition, I'd ask unanimous consent that the contents of the document binder be introduced into the record and to authorize staff to make the appropriate redactions.

Without objection, so ordered.

[The information follows:]

***** COMMITTEE INSERT *****

Ms. DeGette. And let's see. I guess -- oh, I'd like to remind members -- I'd ask -- I'd like to ask the witnesses, if you have -- if you've been requested to provide additional information, that you do so.

And, with that, this subcommittee is adjourned. Thank you.

[Whereupon, at 12:01 p.m., the subcommittee was adjourned.]