

MARYLAND
SPORTS &
ENTERTAINMENT
INDUSTRY COALITION

Testimony of Gil Genn

on behalf of the

Maryland Sports and Entertainment Industry Coalition

House Subcommittee on Commerce, Manufacturing and Trade

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Chairman Burgess, Ranking Member Schakowsky and members of the Subcommittee, thank you for this opportunity to testify in support of H.R. 5104, the Better On-line Ticket Sales Act, or the BOTS Act. I am testifying today on behalf of the Maryland Sports and Entertainment Industry Coalition, a coalition of diverse players in the live entertainment business, including professional sports teams, large and small musical and theatrical venues, and providers of live entertainment shows. The sports and entertainment industry is a huge source of pride in Maryland—hundreds of millions of dollars have been invested in venues, sporting events, concerts, and other live event productions in the State, significantly contributing to the employment of thousands of Maryland residents. On behalf of that industry, we would like to thank all of the sponsors and cosponsors, especially Rep. Blackburn and Rep. Tonko.

Our coalition brings some experience to your debate, as we were instrumental in recently enacting legislation in Maryland similar to the BOTS Act. While we are grateful to our state legislators for enacting that legislation, we recognize the limits of its effectiveness. The underground industry that uses bots to hack ticketing websites is clearly an interstate business. Interstate commerce transactions require federal solutions and H.R. 5104 is a substantial solution to the problem of ticket bots.

The problem arises in part from the unique economics of the live entertainment industry. Teams, artists and traveling shows often choose not to charge the highest price the market will bear for tickets to their events. They do this in order to invest in their long-term relationships with their fans --- it is good business for them. However, this practice has two negative consequences. First, the demand of people who want tickets often exceeds the supply of available seats for the event. Second, pricing below market creates opportunities for arbitrage, which unscrupulous people try to exploit.

As you know, for most live entertainment events there is a restriction on the number of seats one purchaser can buy -- usually between 4 and 8 tickets. It is often the case that, during the opening minutes of the on-sale for a championship game or premier entertainment show, the website of the ticketing agent is overwhelmed by hundreds or thousands of requests for tickets placed by computer programs pretending to be real fans. These bots, as they are called, seize up substantial portions of the ticket inventory. Their software is sophisticated enough to recognize which tickets are the best tickets, that will fetch the highest resale price on the secondary market. Once the botsters have the tickets they want, they release the others back into the on-sale pool. However, the practical result is that real fans often can't get good tickets at face value.

When people use bots to violate the terms and conditions of ticketing web sites, to buy up large blocks of tickets and re-sell them at a markup on the secondary market, they are effectively stealing that investment. H.R. 5104 at least provides a clear civil remedy for this abuse.

The bi-partisan, pro-consumer BOTS Act would create a dual enforcement mechanism to stop that theft. It would make it an "unfair and deceptive practice" to use a bot to hack a ticketing website, and allow the Federal Trade Commission to enforce against people who do so. It would also create a private right of action by which any affected party -- an artist, team, show, ticketing agent or fan -- could sue a botster under a clear federal standard, and recover damages.

Bruce Springsteen, Paul McCartney, Taylor Swift and others do not come every year to Washington DC or your Congressional districts. It is unfair to the younger fans who have discovered these legends to have to pay exorbitant prices to secondary ticket sellers when they are also concerned about their first job salary, saving for college or even paying-off student loans, and real-life expenses. We are hopeful that the dual threat of FTC enforcement and private litigation will serve as a deterrent against people who use bots, and help restore the ability of real fans to get good tickets at face value.

This hearing is also examining legislation that more extensively regulates the primary ticketing market, requiring inventory disclosures of proprietary business information and prohibiting restrictions on resale of tickets. Many states have looked at adopting such policies, and nearly all have -- wisely, in my view -- rejected them. Legislators realized that these bills, while well-intentioned, would only empower scalpers at the expense of real fans.

In recent years, Maryland considered and rejected legislation that would prohibit restrictions on the resale of tickets from the primary ticket seller. One of those restrictive provisions would have prohibited making tickets non-transferrable. This is similar to what is in Congressman Pascrell's Draft on page 5, lines 12-15. Think of all the times where you might attend an event with the Speaker of the House, Cabinet Officials, or even the

President. One of the reasons these tickets are non-transferrable is because of security. Taking away the right of the primary ticket seller to restrict tickets could lead to anyone getting these tickets on the secondary market. In such a case, it would be a very bad policy for obvious security reasons.

I hope Congress will enact this legislation and refrain from adding controversial and burdensome measures to regulate the primary ticketing marketplace.

Once again, thank you for the opportunity to testify. I look forward to your questions.