



**Testimony of**

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**on**

**Proposals to Enhance Product Safety  
and Transparency for Americans**

**Before the**

**United States House of Representatives**

**Energy and Commerce Committee**

**Subcommittee on Innovation, Data, and Commerce**

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## **Introduction**

On behalf of the National Consumers League (“NCL”), I appreciate the invitation to testify before the subcommittee in support of legislation promoting transparency, fairness, and safety in the marketplace.

Founded in 1899, the National Consumers League is the nation’s oldest consumer advocacy organization. For more than 124 years, our non-profit mission has been to promote social and economic justice for consumers and workers in the United States and abroad.<sup>1</sup> NCL believes that promoting competition and fair dealing in the marketplace leads to a more just world that benefits not only consumers’ wallets, but democracy itself.

### **I. Congressional Action to Promote Transparency, Fairness and Safety in the Marketplace Has Never Been More Necessary**

Consumers face long odds when it comes to protecting their pocketbooks these days. In the best of cases, they find themselves at a disadvantage to companies that spend millions devising ever more ingenious strategies to extract revenue from their customers. In the worst-case scenarios, scammers plot elaborate schemes to steal money from trusting consumers.

Reducing the risk of marketplace harms to your constituents should be a key priority for every Member of Congress. Each day, the individuals you represent face hidden fees on hotel rooms and pay sky-high prices just to see their favorite band or team play (when tickets are even available). At home, they incur thousands of dollars in unexpected plumbing bills after flushing the wrong “flushable” product. And all the while they must be on the lookout for criminals

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<sup>1</sup> For more information, visit [www.nclnet.org](http://www.nclnet.org).

whose efforts to defraud them extend into even the most private of environments. Consumers need your help to make things a little easier in this fight.

## **II. There Has Never Been a Better Time to Reform Live Event Ticketing**

In November 2022, tens of millions of fans went online at once to try and purchase tickets to Taylor Swift's Eras Tour. The demands placed by the mega-star's legions of fans -- as well as armies of ticket brokers -- overwhelmed Ticketmaster's system. The company reported 3.5 billion system requests, four times its previous peak.<sup>2</sup> Two million tickets were reportedly sold in a single day, but millions of fans were left without tickets, driving prices into the ether on secondary ticket markets. Outraged Swifties took to the Internet,<sup>3</sup> filed lawsuits,<sup>4</sup> and demonstrated on Capitol Hill.<sup>5</sup> Congress responded, calling Ticketmaster before the Senate Judiciary Committee to answer for the implosion of their supposedly sophisticated ticketing systems.<sup>6</sup> The Swifties are not alone. While the Taylor Swift meltdown may have been an anomaly, it exposed the ugly underbelly of a live event industry that is rigged to maximize profits of a select few no matter the frustration for millions of fans.

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<sup>2</sup> Ticketmaster. "Taylor Swift | The Eras Tour Onsale Explained." Press release. (November 19, 2022) Online: <https://business.ticketmaster.com/business-solutions/taylor-swift-the-eras-tour-onsale-explained/>

<sup>3</sup> Limbong, Andrew. "Taylor Swift fans caused Ticketmaster to crash and lawmakers are demanding answers," NPR.org. (November 17, 2022). Online: <https://www.npr.org/2022/11/17/1137501868/taylor-swifts-fans-caused-ticketmaster-to-crash-and-lawmakers-are-demanding-answ>

<sup>4</sup> Korn, Jennifer. "Taylor Swift fans take Ticketmaster to court over Eras Tour ticketing chaos," CNN Business. (March 27, 2023) Online: <https://www.cnn.com/2023/03/27/media/taylor-swift-ticketmaster-court/index.html>

<sup>5</sup> Patil, Anushka and Kari, Aishvarya. "Closely watching the Ticketmaster hearing today: Swifties," *New York Times*. (January 24, 2023) Online: <https://www.nytimes.com/2023/01/24/arts/music/taylor-swift-fans-ticketmaster.html>

<sup>6</sup> "That's the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment," U.S. Senate Judiciary Committee. (January 24, 2023) Online: <https://www.judiciary.senate.gov/committee-activity/hearings/thats-the-ticket-promoting-competition-and-protecting-consumers-in-live-entertainment>

Three bills before the subcommittee today seek to reform a live event ticketing industry that lacks checks and balances and advantages ticketing companies at the expense of average customers. Each of these bills have NCL's support.

First, H.R. 3660, the Better Oversight of Stub Sales and Strengthening Well Informed and Fair Transactions for Audiences of Concert Ticketing Act ("BOSS and SWIFT ACT") of 2023,<sup>7</sup> sponsored by Representatives Pascrell, Pallone, Brownley, and Delegate Holmes Norton, is the single most comprehensive pro-fan and pro-competition ticketing legislation before Congress. In 2016, I appeared before the House Commerce Committee to support this bill's comprehensive approach to fixing the live event industry. This bill will help to fix ticketing junk fees by mandating all-in pricing of tickets. This will let consumers see total ticket prices up front instead of having to click through multiple screens and provide personal information to find out what the ticket will actually cost. This bill also requires better disclosure of important information like ticket refund policies, sheds daylight on ticket "holdbacks" that siphon tickets to a privileged few at the expense of the average fan, clamps down on unauthorized speculative ticket sales, and helps protect consumers from Ticketmaster's anti-competitive efforts to extend its monopoly into the secondary ticket market.

H.R. 3950, the Transparency In Charges for Key Events Ticketing ("TICKET") Act,<sup>8</sup> would also address one of fans' biggest pain points when it comes to ticketing the out-of-control fees that add an average of 27-31 percent to the cost of a ticket on the primary and secondary markets, respectively.<sup>9</sup> The bill would mandate all-in pricing, allowing fans to more easily compare the prices of live event tickets, including fees, without having to go through lengthy checkout processes designed

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<sup>7</sup> H.R.3660 - 118th Congress (2023-2024): BOSS and SWIFT ACT of 2023. (2023, May 26).

<https://www.congress.gov/bill/118th-congress/house-bill/3660/all-info>

<sup>8</sup> H.R.3950 - 118th Congress (2023-2024): TICKET Act, H.R.3950, 118th Cong. (2023),

<https://www.congress.gov/bill/118th-congress/house-bill/3950/all-info>.

<sup>9</sup> Government Accountability Office (GAO). *Event Ticket Sales: Market Characteristics and Consumer Protection Issues*.(April 2018) Online: <https://www.gao.gov/assets/gao-18-347.pdf>

to make comparison pricing more difficult. The bill would also crack down on a controversial and often deceptive practice known as speculative ticketing. Despite its name, speculative ticket sales are not selling tickets at all. Rather, a speculative sale involves a fan buying a promise from a reseller to obtain a ticket at a set price. Such sales are typically labeled as “tickets,” creating consumer confusion when a reseller is unable to actually obtain the ticket.<sup>10</sup> The bill would require ticket sellers to disclose clearly and conspicuously that they do not have tickets in hand when speculative sales occur.

The Speculative Ticketing Ban Discussion Draft<sup>11</sup> would go a step further than the BOSS and SWIFT Act and the TICKET Act. The bill bans speculative ticket sales outright while carving out buying services that are designated separately from traditional ticket resale listings.

### **III. Congress Has a Role to Play in Helping Consumers Avoid Unnecessary Costs**

NCL applauds the subcommittee for examining solutions in additional areas where expensive traps lie in wait for unsuspecting consumers.

First, we are happy to support Representative Kim’s No Hidden Fees on Extra Expenses for Stays Act to mandate all-in pricing in the hotel and short-term lodging industries. This common-sense transparency bill would address the scourge of mandatory hidden hotel resort fees that reportedly earned the hotel industry \$2.7 billion in revenue in 2017, a figure that has undoubtedly grown as

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<sup>10</sup> Burchill, Caitlin. “Burlington man learns his expensive Taylor Swift tickets don’t exist days before concert.” NBC-Connecticut. (June 13, 2023) Online: <https://www.nbcconnecticut.com/investigations/nbc-ct-responds/burlington-man-learns-his-expensive-taylor-swift-tickets-dont-exist-days-before-concert/3048419/>

<sup>11</sup> H.R. - Speculative Ticketing Ban Discussion Draft. Online: [https://d1dth6e84htgma.cloudfront.net/H\\_R\\_The\\_Speculative\\_Ticketing\\_Discussion\\_Draft\\_d08b3f196c.pdf](https://d1dth6e84htgma.cloudfront.net/H_R_The_Speculative_Ticketing_Discussion_Draft_d08b3f196c.pdf)

more hotels embrace the anti-consumer practice.<sup>12</sup> The bill would also require the inclusion of fees such as Airbnb’s cleaning fees, which typically add around \$75 to the cost of a reservation.<sup>13</sup> All-in pricing requirements are particularly effective at promoting competition. When one business can mask the true cost of their product or service behind hidden fees, it makes their offering seem more affordable than their competitor. The competitors, not wishing to lose market share, are incentivized to add their own hidden fees and a vicious cycle goes on and on. Getting rid of such fees is just as difficult because no business wants to lose customers by being the first to voluntarily embrace all-in pricing. This market failure is exactly why bills like Representative Kim’s are needed.

Reducing unnecessary costs is also why NCL is proud to support Representatives McClain’s and Peltola’s bipartisan and bicameral Wastewater Infrastructure Pollution Prevention and Environmental Safety (“WIPPES”) Act.<sup>14</sup> Personal wipes are big business, generating an estimated \$2.5 billion in sales North America in 2019.<sup>15</sup> Many of those wipes are flushed down the toilet, which can lead to expensive plumbing bills and damage to municipal sewers. This bill would require manufacturers to label their cleaning wipes as non-flushable to protect wastewater infrastructure from damage. Consumers flushing cleaning wipes can be especially costly for those who rely on septic systems. Since cleaning wipes do not break down in plumbing systems the way that toilet paper does, backups are more likely to occur. Requiring labels that discourage flushing cleaning wipes is a simple solution that could save consumers from needing to repair damaged septic

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<sup>12</sup> Kirkham, Chris. “Resort’ Fees Are No Longer Only for Resorts,” *Wall Street Journal*. (September 22, 2017) Online: <https://www.wsj.com/articles/resort-fees-are-no-longer-only-for-resorts-1506078000>

<sup>13</sup> French, Sally. “Airbnb Has a Plan to Fix Cleaning Fees,” NerdWallet.com. (August 10, 2023) Online: <https://www.nerdwallet.com/article/travel/airbnb-has-a-plan-to-fix-cleaning-fees>

<sup>14</sup> H.R.2964 - 118th Congress (2023-2024): WIPPES Act, H.R.2964, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-bill/2964>.

<sup>15</sup> National Association of Clean Water Utilities. “The Cost of Wipes on America’s Clean Water Utilities: An Estimate of Increased Utility Operating Costs.” (September 2020) Online: [https://www.nacwa.org/docs/default-source/resources---public/govaff-3-cost\\_of\\_wipes-1.pdf?sfvrsn=b535fe61\\_2](https://www.nacwa.org/docs/default-source/resources---public/govaff-3-cost_of_wipes-1.pdf?sfvrsn=b535fe61_2)

systems, which costs an average of \$1,775.<sup>16</sup> The bill would also help consumer who rely on municipal sewage systems. According to the National Association of Clean Water Agencies, the flushing of wipes adds an estimated \$441 million in additional operating costs at U.S. clean water utilities. This translates into \$7.65 in added annual costs per household, though the costs for consumers in states like Illinois can be as much as \$25 per year.<sup>17</sup> These added costs are undoubtedly passed along to ratepayers in the form of higher bills.

#### **IV. Reducing the Risk of Fraud is of Critical Importance**

Consumers reported losing \$8.8 billion to fraud in 2022 -- an increase of nearly \$2.6 billion over 2021.<sup>18</sup> Most fraud experts agree that reported fraud numbers are almost certainly a significant undercount. Romance scams are particularly costly for their victims, with median losses of \$4,400 last year.<sup>19</sup> And the financial losses are just one type of harm. Because of the nature of romance scams, which often begin on online dating websites, the emotional toll can be even more devastating.<sup>20</sup>

Rep. Valadao's Online Dating Safety Act of 2023 seeks to help users of online dating sites to spot a pervasive tactic that romance scammers employ. Typically, romance scammers try to move potential victims off dating websites' or apps' messaging services to platforms like email, text message or phone. This is done to

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<sup>16</sup> Zito, Barbara. "How Much Does Septic Tank Repair Cost?" (April 20, 2023) Online: <https://www.forbes.com/home-improvement/plumbing/septic-tank-repair-cost/>

<sup>17</sup> National Association of Clean Water Utilities. "The Cost of Wipes on America's Clean Water Utilities: An Estimate of Increased Utility Operating Costs." (September 2020) Online: [https://www.nacwa.org/docs/default-source/resources---public/govaff-3-cost\\_of\\_wipes-1.pdf?sfvrsn=b535fe61\\_2](https://www.nacwa.org/docs/default-source/resources---public/govaff-3-cost_of_wipes-1.pdf?sfvrsn=b535fe61_2)

<sup>18</sup> Federal Trade Commission. *Consumer Sentinel Network Data Book 2022*.

<sup>19</sup> Federal Trade Commission. "Romance scammers' favorite lies exposed," (February 9, 2023) Online: <https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2023/02/romance-scammers-favorite-lies-exposed>

<sup>20</sup> Montemayor, Stephen. "Surging romance scams leave lasting emotional scars, deep financial toll." *Star Tribune (MN)*. (February 11, 2023) Online: <https://www.startribune.com/surging-romance-scams-leave-lasting-emotional-scars-deep-financial-toll/600250956/>

evade dating services' message monitoring technology that detects and bans known scam accounts. Unfortunately for victims who have already been lured off such dating messaging platforms, such remedial actions often do not reach them in time to prevent harm.

Representative Valadao's bill would require dating websites and apps to proactively notify users that an account they messaged has been banned. Such notifications would do much to intervene in ongoing frauds and likely help to reduce the scourge of romance scams.

## **Conclusion**

Thank you for giving NCL the opportunity to express our support for these six pro-consumer bills. We look forward to answering your questions.