



TESTIMONY OF DAVID TOUHEY  
Before the Committee on Energy and Commerce  
Subcommittee on Innovation, Data, and Commerce  
September 27, 2023

Chairman Bilirakis, Ranking Member Schakowsky, and Members of the Subcommittee, thank you for inviting me to testify about legislative proposals to address ticket sales abuses in the live event industry on behalf of the International Association of Venue Managers. Representing public assembly venues, IAVM's 7,200+ active members include managers and senior executives from auditoriums, arenas, convention centers, exhibit halls, stadiums, performing arts centers, university complexes, amphitheaters, and fairgrounds. IAVM's mission is to educate, advocate for, and inspire public assembly venue professionals.

IAVM is a member of the Fix the Tix Coalition, working with our colleagues in the music, sports, and other live event industries to stop abuses in ticket sales that harm consumers, frustrate fans, and artificially inflate the price of admission to live events. Members of the Fix the Tix Coalition make shows happen. We are on the front line and our number one goal is to ensure that fans have an enjoyable experience at every live event. We are the face, and the place fans associate with an event, we field their calls of concern and do our best to resolve their issues, many of which you will hear are out of our control.

We applaud you, Mr. Chairman and Ranking Member Schakowsky, for recognizing that problems exist in ticketing and your work to fix them, especially with the introduction of the Speculative Ticketing Discussion Draft you are considering today. The TICKET Act, the BOSS SWIFT Act and the Speculative Ticketing Draft collectively contain provisions that would strike at the most pressing of the current

problems in the ticket market, but not one bill goes far enough. Today, I will highlight the positive provisions in the three bills and note other provisions that could have the unintended consequence of making the process more confusing to customers and easier for ticket brokers to drive up costs. Some of these provisions would make it more likely that consumers end up at their favorite shows having paid more yet holding fake tickets.

I started in the venue management industry 30 years ago working as event staff while in college. After graduation, one of my first jobs was the Box Office Manager at Whittemore Center Arena at the University of New Hampshire, I have worked throughout the country in a variety of positions. Most recently, I was president of venues for Monumental Sports & Entertainment and oversaw all operations at its four buildings here in the Washington, D.C area. Throughout my career, there have been huge changes in the ticket business. In the old days, tickets were purchased mostly onsite, and scalpers stood outside buildings selling physical tickets while evading law enforcement since in many places ticket scalping was outlawed.

Today, most tickets are purchased online and computer programs, including bots, fuel ticket scalping. Indeed, this process has given rise to a now-called “secondary ticket market” that preys on uninformed consumers desperate to see their favorite artists or teams. Often, ticket buyers have no idea when they search to buy tickets that they are dealing with a third party when they click on a web site that by all indications appears to be the official venue or artist website. Due to deceptive websites, paid sponsor links and search engine optimization, buyers often do not realize they are not on the actual venue or artist site, nor are they aware that tickets may still be available from the primary seller on the official website at a lower face value price or that they may be buying a ticket that the reseller doesn’t even possess. This combination of deceptive websites, search engine optimization, bots and

fraudulent or speculative tickets makes it extremely difficult for the average consumer to have a positive ticket-buying experience.

What can be done to change that?

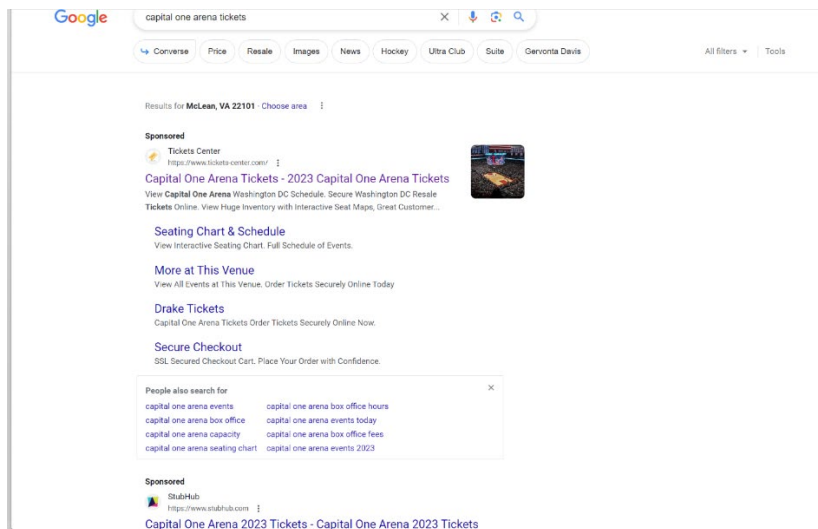
H.R. 3950, The Transparency In Charges for Key Events Ticketing or TICKET Act, is a good first step. The bill requires all-in pricing information to be displayed so that consumers know all the fees they will be charged. While surprise fees have long been an issue that plagued the tickets sales process, more recently most venues and artists have already moved to all-in pricing since they don't want customers to be surprised. It makes sense to require the same of ticket resellers. When the Senate Commerce Committee reported out their version of the TICKET Act this summer, they clarified that this all-in information is required at the point of sale only and not on all advertisements such as posters and flyers. We urge this committee to include this change.

The Senate also removed language that effectively legalized speculative tickets by only requiring disclosure. Speculative tickets or the practice of selling something you don't have should be considered fraud and disclosure is not a sufficient answer to the speculative ticket problem. Banning them is. That is why IAVM and the Fix the Tix Coalition call for a speculative ticketing ban and support the Speculative Ticketing Ban Discussion Draft under consideration today. The problems in the industry will not be addressed unless resellers are prevented from reselling tickets they don't yet possess or have a contract to possess.

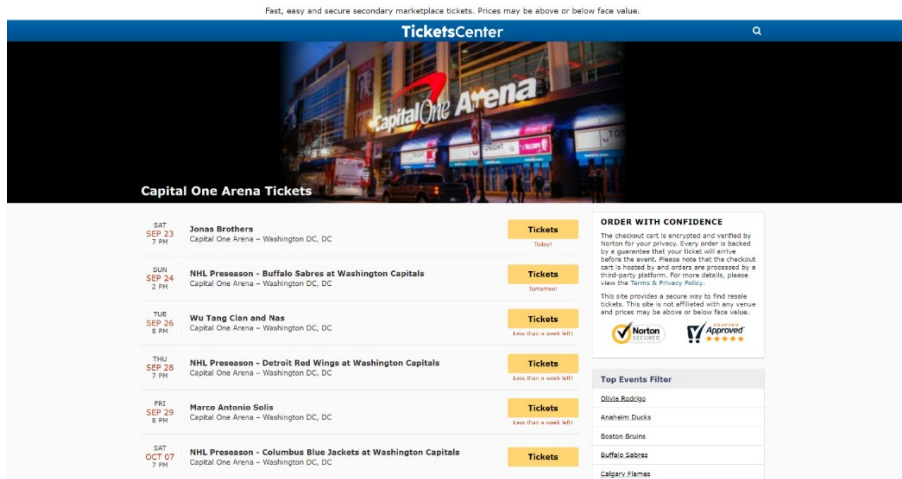
While we also appreciate inclusion of language to prohibit deceptive URLs in H.R. 3660, The Better Oversight of Stub Sales and Strengthening Well Informed and Fair Transactions for Audiences of Concert Ticketing (BOSS and SWIFT) Act of 2023, the provision needs to be strengthened and expanded. One thing that is fueling a predatory reseller market is the widespread deployment of

deceptive marketing, URLs, imagery, and Search Engine Optimization by resellers using unauthorized intellectual property from artists and venues. This deception must be made illegal in any bill Congress passes.

As I prepared this testimony I used my browser to search for tickets at the Capital One Arena – a venue that I managed. Below are the results:



When I clicked on the first selection that appeared, I was taken to a website that uses the image of Capital One Arena and makes itself appear to be associated with the venue (which it is not). An average fan trying to quickly score tickets might assume that they had landed on the web page for the arena and think they were purchasing tickets directly from the venue and primary seller.



While this particular site has a label at the top that it is a secondary ticket marketplace (in very small print), many sites do not, and the average consumer will likely miss that or not fully understand what it means. That mistake can be costly. This is one blatant example of a deceptive website for one venue; there are many that exist for almost every venue in the U.S.

For this example, I attempted to purchase two tickets to Wu Tang Clan who played at the arena last night. On this site I could find two floor seats in Section 2, Row P for \$1,503 all in – however I couldn't be certain where on the row the seats would be located since the site won't disclose seat numbers. That's always an indication it's not an official sales site and most often a sign that the tickets are speculative, meaning, the reseller doesn't have possession of the tickets. To round out this example I visited the venue's actual site and easily found two seats in Section 2, Row P seats 15 and 16 for a total cost of \$637.40. I could easily see exactly where the specific seats were located.

The average customer does not understand or care what disclosure is on a website. They see tickets they want for an event they want to attend and feel pressure to purchase them often without

ever visiting the actual site of the venue or artist. After all, I received pop ups while on that site that the tickets would sell out if I didn't act right away.

The large markup in ticket price on the reseller site in this example is not unusual. Who benefits from the markup of \$865.60 – the difference between the resold Wu Tang tickets and cost of the primary tickets? Only the ticket reseller. The artist doesn't see a cent of that price markup. Neither does the venue nor anyone involved in paying the actual expenses of the event. The consumer is hurt by the greed of a ticket resale industry that has figured out how to legally manipulate ticket sales for their personal gain. This is the underlying problem that fuels all of the issues.

While the BOSS and SWIFT Act would prohibit deceptive URL's, it also contains provisions to make it even easier for this manipulation to continue. One example is the provision that requires the primary ticket seller to disclose the total number and total cost of tickets that will be offered for sale not less than 7 days before the date the tickets are made available on the primary market. This serves no purpose to an average customer; it only aids the secondary resellers. It would provide them with more data points which would allow them to further speculate on the seats that are going up for sale and drive up prices by looking at venue maps to determine which ones are most likely to be sold. The result would be more speculative tickets in the market and escalating prices for consumers.

This provision would also remove the flexibility venues and artists need to design shows and add or remove seats based on how well a show is selling. Artists don't like to perform before empty seats, so if a show isn't selling well, they may decide to remove sections further away from the stage and relocate seats closer. If a show is sold out, they might decide to redesign the production to enable more areas to be open for seating and add more seats for fans. The disclosure requirements on primary sellers contained in the BOSS and SWIFT Act would remove any ability to do that.

Taken together, there are good provisions in all three bills that would begin to help curb ticket sales abuses, however they do not go far enough. There are additional policy changes the Fix the Tix Coalition recommends adopting to address other problems created by ticket resellers, including banning ticket brokers from buying fan club and presale tickets out from under real fans. I'm happy to discuss these additional measures if you are interested. Please know that IAVM and the Fix the Tix Coalition stand ready to work with you to find common sense solutions to cure problems in the ticket industry and provide a safer, more positive consumer experience. Our members are committed at all levels to ensuring fans have a great experience from the moment they begin the process to purchase tickets until they leave our doors after an event.