



NOTE

**THE PRICE IS NEVER RIGHT: A LOOK AT LIVE
NATION ENTERTAINMENT'S CONTRIBUTION
TO TICKET INFLATION**

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Live Nation Entertainment's dominance over the online ticketing industry has come at a significant cost to consumers. Through its control of venues, monopolistic conduct, collusion with ticket scalpers, and use of widely criticized business practices like demand-based pricing, the platform has perpetuated the artificial inflation of ticket prices. This Note examines legislation and enforcement actions directed against Live Nation Entertainment, including a recent jury verdict against the company, and argues that the momentum from this verdict must be carried forward into structural change within the ticket industry. Previous enforcement actions have resulted in settlements and fines proving largely ineffective in curbing Live Nation Entertainment's misconduct, and legislation directed towards the platform's predatory pricing models largely fail to address the issue head on. This Note argues that future enforcement actions must use this recent verdict as a guidepost, and legislation directly addressing the use of demand-based pricing must be passed in order to bring concrete reform to the ticket industry and protect consumers from being exploited by ticket inflation.

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I. INTRODUCTION

Imagine your favorite music artist just announced their tour, and they are coming to a city near you. You rush to your computer to get a ticket, hurrying because you have heard about tickets for other artists doubling or tripling in price on the resale market. Not wanting to lose out on the original price of a ticket, you log onto the website shortly before the sale goes live. You have your wallet handy and eyes trained on the clock. The second that the tickets go live, you refresh the

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webpage. No dice. The tickets on the website have sold out almost instantaneously. The \$70 ticket you were hoping to buy has now jumped somewhere in the ballpark of \$1,500 on the secondary market.

While this price jump may seem drastic, this exact scenario played out when two college students attempted to buy tickets for singer Gracie Abram's tour.¹ Ticket scalping, a process where individuals will buy up the supply of tickets and flip them for a profit, was the cause of the instant sell out and massive jump in price.² In the digital age, ticket scalpers often use automated bots to scoop up tickets as soon as the tickets go on sale, leaving consumers with little to no chance of a fair shot at original ticket prices.³

Now imagine a very similar scenario: An artist just announced their tour, and fans rush online hoping for the opportunity to grab a ticket. This artist is quite popular, so fans will need to spend most of the day waiting in a queue for a chance to grab a ticket. Eventually, their screen refreshes, and they can purchase a ticket—but the price shown is more than double what was originally advertised for the ticket. Notably, the disappointed fans are still on the official, primary ticket seller's website, not the secondary market.

This business model has been generally referred to as “dynamic pricing” or “tiered pricing” (though, due to confusion regarding different subsets of the pricing model and their similar effects on ticket prices, which are discussed later, this Note refers the practice generally as “demand-based pricing”), and is used across industries from rideshare apps to concert tickets.⁴ Through demand-based pricing, the price of a product or service rises when demand is high and shrinks when demand is low.⁵ Although one intention of demand-based pricing was to discourage scalping, critics have called the practice out of control and noted its ineffectiveness as a scalping

1. Grace Rivera, *Digital Age Ticket Scalping Leaves Fans Out in the Cold*, PULITZER CTR. (May 28, 2025), <https://pulitzercenter.org/stories/digital-age-ticket-scalping-leaves-fans-out-cold> [https://perma.cc/WXB4-LFPX (staff-uploaded)].

2. *Id.*

3. *Id.*

4. Aryn Kodet, *The Age of Dynamic Pricing*, REYNOLDS CTR. (Sep. 23, 2025), <https://businessjournalism.org/2mintip/dynamic-pricing/> [https://perma.cc/349F-EVJZ].

5. *Id.*

deterrent.⁶ This pricing strategy gained widespread attention through its implementation in tours of major musical acts, and its use by online ticketing behemoths such as Ticketmaster (who, with its parent company Live Nation, are collectively referred to as Live Nation Entertainment or “LNE”).

Rather than deterring scalping, demand-based pricing leaves consumers in a situation mirroring scalping: Pay a much-inflated price for tickets or do not attend the concert at all.⁷ While federal legislation like the Better Online Ticket Sales Act (“BOTS Act”)⁸ was eventually passed to outlaw ticket scalping bots, lawmakers have been slow to pick up the slack on demand-based pricing.⁹ Additionally, the purpose of the BOTS Act—to bring down ticket prices¹⁰—is undermined when ticketing platforms utilize demand-based pricing.¹¹ Further, demand-based pricing is only one component leading to artificial ticket inflation. LNE has also been accused of violating the BOTS Act through colluding with ticket scalpers, since Ticketmaster acts as both a primary and secondary market for tickets.¹² LNE has further been accused of using its vast market power to engage in anticompetitive and monopolistic business practices.¹³

This Note examines allegations against LNE along with enforcement actions taken against the platform, and discusses the shortcomings of current laws meant to protect online ticket buyers. Part II provides a background on antitrust concerns surrounding LNE. Part III introduces the practice of ticket scalping and federal legislation passed in an attempt to keep it in check. Part IV discusses demand-based pricing, some subsets of the pricing strategy, and its use by LNE. Part V examines enforcement actions against LNE and laws

6. Amelia Vandergast, *Priced Out and Pissed Off: The Great Ticketmaster Concert Ticket Heist of 2024*, A&R FACTORY (Sep. 26, 2024), <https://www.anrfactory.com/priced-out-and-pissed-off-the-great-ticketmaster-concert-ticket-heist-of-2024/> [https://perma.cc/9JDT-SMEF].

7. *See id.*; Kodet, *supra* note 4.

8. 15 U.S.C. § 45c (2025).

9. *See infra* Parts III.B, V.C.

10. *See infra* Part III.A.

11. *See infra* Parts III.B, IV.

12. *See infra* Part V.B.

13. *See infra* Part V.A.

that address online ticket pricing, to varying degrees of effect. Finally, Part VI looks to the future and provides recommendations to protect consumers from artificial ticket inflation.

II. A BACKGROUND OF LIVE NATION ENTERTAINMENT'S ANTITRUST CONCERNS THROUGH A PEARL JAM CASE STUDY

A. *An Uneven Flow: Pearl Jam and Ticketmaster's Vice Grip on Venues*

One of the major causes of concern regarding LNE—the result of a merger between companies Ticketmaster and Live Nation—is the massive share of the ticketing market the company controls. As of late 2025, LNE controlled 80% or more of the primary ticketing for major concert venues as well as a growing share of the secondary resale market.¹⁴ From 2019 through 2024, \$82.6 billion was spent purchasing tickets on LNE.¹⁵ However, LNE has not always been the industry giant it is today.

Founded in 1976, Ticketmaster was originally a small company competing with Ticketron, then monopoly holder of the computerized ticketing industry.¹⁶ But Ticketmaster grew quickly, and by 1991 it had reached a deal to purchase Ticketron.¹⁷ This merger garnered mixed reactions, as did Ticketmaster's rapid growth into a major industry player.¹⁸ Within seven years of being hired, then-CEO Frederic D. Rosen boosted Ticketmaster's revenue from \$1 million to

14. Press Release, Fed. Trade Comm'n, *FTC Sues Live Nation and Ticketmaster for Engaging in Illegal Ticket Resale Tactics and Deceiving Artists and Consumers about Price and Ticket Limits* (Sep. 18, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-sues-live-nation-ticketmaster-engaging-illegal-ticket-resale-tactics-deceiving-artists-consumers> [https://perma.cc/Y3S9-A3HN].

15. *Id.*

16. Eric Fruits, Geoffrey A. Manne & Brian Albrecht, *Live Nation Breakup: Are Mergers Really to Blame for Ticketmaster's Problems?*, TRUTH ON THE MKT. (May 24, 2024), <https://truthonthemarket.com/2024/05/24/live-nation-breakup-are-mergers-really-to-blame-for-ticketmasters-problems/> [https://perma.cc/T8T4-WM8K].

17. *Id.*; Alan Citron & Michael Cieply, *Ticketmaster to Lick Competition by Buying It*, L.A. TIMES (Feb. 26, 1991), <https://www.latimes.com/archives/la-xpm-1991-02-26-fi-2013-story.html> [https://perma.cc/WZR6-X4PX].

18. See Citron & Cieply, *supra* note 17.

\$80 million.¹⁹ Rosen credited this surge to Ticketmaster’s “aggressive workforce and advanced computer system,” though others posited that this rapid growth was connected to Rosen allegedly engaging in unfair business practices by “adding fees as high as 55% of the base ticket price.”²⁰ Notwithstanding these allegations, the Department of Justice (“DOJ”) cleared the merger, and Ticketmaster began its tenure as the industry’s dominant firm.²¹

By 1994, best-selling rock band Pearl Jam was voicing its disdain for Ticketmaster’s business practices.²² Most notably, Pearl Jam criticized the platform and attempted to set hard-and-fast price limits for its upcoming tour’s tickets and associated fees.²³ The band claimed that Ticketmaster “abused its marketplace dominance by collecting sky-high service fees and signing exclusive deals with major concert venues, leaving consumers and artists with no other alternative.”²⁴ By this point, Ticketmaster held 70% of the ticketing market.²⁵ Because the platform held such a large market share, it was able to incentivize venues through profits collected from ticket fees to sign exclusive contracts, whereby tickets to a venue would be exclusively sold on Ticketmaster.²⁶ This led to cities having most, if not all, of their major venues locked in to sales through Ticketmaster only.²⁷ The exclusive contracts were evidently another brainchild of Frederic Rosen, and it was not until Pearl Jam brought the issue to light that many consumers became aware of these exclusive deals.²⁸

Due to the conflict, Pearl Jam cancelled its 1994 tour and decided that it would skip venues that worked with Ticketmaster on its upcoming tour in 1995. However, due to the platform’s exclusivity with

19. *Id.*

20. *Id.*

21. Fruits, Manne & Albrecht, *supra* note 16.

22. Eric Boehlert, *Pearl Jam: Taking on Ticketmaster*, ROLLING STONE (Dec. 28, 1995), <https://www.rollingstone.com/music/music-news/pearl-jam-taking-on-ticketmaster-67440/> [<https://perma.cc/R384-N8CM> (staff-uploaded, dark archive)].

23. *Id.*

24. *Id.*

25. *See id.*

26. *Id.*

27. *Id.*

28. *Id.*

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the vast majority of U.S. venues, this decision quickly turned into a logistical nightmare for the band.²⁹ Additionally, the band also filed an antitrust complaint with the DOJ, which triggered a federal investigation into Ticketmaster.³⁰ Despite the band's determination, the DOJ ultimately closed its investigation after concluding that no antitrust laws had been breached.³¹ This decision was believed by sources close to the case to have been made, in part, because venues and promoters willingly signed the exclusive contracts with Ticketmaster.³²

B. Ticketmaster's Merger with Live Nation

Following Pearl Jam's failed antitrust challenge, Ticketmaster continued expanding across the ticket market and by 2010 merged with another major player in the industry: Live Nation.³³ The new company, LNE, established itself as a live entertainment giant. Two years before the merger, in 2008, Ticketmaster had sold 141 million tickets to the tune of \$8.9 billion, and Live Nation was "by far" the largest concert promoter in the world, producing around 22,000 venues that same year.³⁴ Christine Varney, the assistant attorney general of the DOJ's Antitrust division, stated that the DOJ had

29. Ed Power, *How Pearl Jam Took on the Music Industry and Lost – But Predicted the Future*, THE INDEPENDENT (July 6, 2019, at 07:20 ET), <https://www.the-independent.com/arts-entertainment/music/features/pearl-jam-ticketmaster-1995-boycott-booking-fees-gigs-ticket-prices-a8989516.html> [https://perma.cc/CW3K-R2YU].

30. Boehlert, *supra* note 22.

31. Power, *supra* note 29. Following the close of the investigation, a Ticketmaster spokesperson said, "Getting attacked by a superstar rock band is a lot like being accused of kicking your dog: there's a general presumption of guilt until proven innocent . . . [l]uckily the facts were on our side, and we prevailed." *Id.*

32. *Ticketmaster Cleared*, WASH. POST (July 6, 1995), <https://www.washingtonpost.com/archive/lifestyle/1995/07/06/ticketmaster-cleared/1282ac48-d0e4-4380-9163-bc20d9c2335d/> [https://perma.cc/7GA5-93HB (dark archive)].

33. Ben Sisario, *Ticketmaster and Live Nation Win Approval to Merge*, N.Y. TIMES (Jan. 5, 2010, at 15:56 ET), <https://archive.nytimes.com/mediadecoder.blogs.nytimes.com/2010/01/25/ticketmaster-and-live-nation-get-approval-to-merge/> [https://perma.cc/44GS-STPF].

34. *Id.*

originally concluded the merger to be “anticompetitive,” but “required divestitures and behavioral prohibitions” alleviated those concerns.³⁵ In its Final Judgment, the DOJ required Ticketmaster to sell one of its ticketing divisions, named Paciolan, and license its ticketing software to a competing concert promoter, Anschutz Entertainment Group.³⁶ Additionally, the combined company would be subject to anticompetitive provisions for the following ten years.³⁷ As for behavioral prohibitions, the DOJ prohibited LNE, in part, from retaliating against or threatening venues for using ticket platforms other than its own, and from using ticketing data in its promotion or management business unless it provided that data to other promoters and managers not affiliated with LNE.³⁸

Varney stated that the DOJ’s decision to let the companies merge would preserve competition within the market, and that she expected to see ticket prices come down as a result.³⁹ As expected with a deal of this size, the merger was not without its critics. For instance, Representative Bill Pascrell Jr., warned

[m]oving forward, as these two companies with a history of anti-consumer behavior are poised to join together into an entertainment behemoth, I will be keeping a close eye on how the Department of Justice and Federal Trade Commission enforce any conditions they impose on this new entity to ensure consumers are protected.⁴⁰

Ticket prices, in reality, did not decrease in the years following the merger. Rather, from 2009 to 2019, ticket prices for the top 100 tours

35. *Id.*

36. United States et al. v. Ticketmaster Entertainment Inc. and Live Nation Inc.; Proposed Final Judgment and Competitive Impact Statement, 75 Fed. Reg. 6709, 6724–25 (Feb. 10, 2010).

37. *Id.* at 6721.

38. *Id.* at 6719.

39. Sisario, *supra* note 33.

40. *Id.*

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world-wide increased by nearly 50% to an average of \$92.42.⁴¹ By 2025, the average ticket price for the top 100 tours totaled \$132.62 worldwide and \$134.23 in North America.⁴² Additionally, by 2019, the DOJ determined that LNE had “repeatedly and over the course of several years engaged in conduct that . . . violated the Final Judgment.”⁴³ Competitors of LNE accused the company of using its market power to coerce venues into using LNE or risk losing bookings.⁴⁴

In response to the violations, the DOJ clarified its Final Judgment, further spelling out what LNE could not do with respect to coercing venues.⁴⁵ LNE also agreed to extend its consent decree to the Final Judgment by an additional five years.⁴⁶ But in May 2024, approximately seven months before the consent decree was set to expire, the DOJ initiated another lawsuit against LNE, alleging that since the consent decree extension, the platform “committed additional, different, and more expansive violations of the antitrust laws [as compared to its violations described in 2019].”⁴⁷ This lawsuit is further discussed in Part VI.A.

41. Brent Kendall & Anne Steele, *Justice Department Preparing Legal Action Against Live Nation for Ticketing Practices*, WALL ST. J. (Dec. 13, 2019, at 17:44 ET), <https://www.wsj.com/articles/justice-department-preparing-legal-action-against-live-nation-for-ticketing-tactics-11576266778> [<https://perma.cc/79GZ-32HK> (staff-uploaded, dark archive)].

42. Bob Allen, *Pollstar 2025 Year End Business Analysis*, POLLSTAR (Dec. 23, 2025, at 07:02 ET), <https://news.pollstar.com/2025/12/23/year-end-business-analysis-a-return-to-earth-2025-grosses-ticket-sales-drop-averages-increase-beyonce-oasis-coldplay-have-top-tours-venues-stadiums-rock/> [<https://perma.cc/489B-FAXT>].

43. Press Release, U.S. Dep’t of Just., Justice Department Will Move to Significantly Modify and Extend Consent Decree with Live Nation/Ticketmaster (Dec. 19, 2019), <https://www.justice.gov/archives/opa/pr/justice-department-will-move-significantly-modify-and-extend-consent-decree-live> [[https://perma.cc/6J\]4-W7VT](https://perma.cc/6J]4-W7VT) (staff-uploaded)].

44. Kendall & Steele, *supra* note 41.

45. U.S. Dep’t of Just., *supra* note 43.

46. *Id.*

47. Complaint at 29, United States v. Live Nation Ent., Inc., No. 1:24-CV-03973 (S.D.N.Y. May 23, 2024), <https://www.justice.gov/atr/media/1353101/dl> [<https://perma.cc/Q2QE-FDL>]; see *infra* Part VI.A.

III. TICKET SCALPING AND THE GOVERNMENT'S RESPONSE

A. *Ticket Scalping*

Besides monopolistic behavior, another concern for online ticket customers is ticket scalping.⁴⁸ While the use of online bots to beat out ticket consumers is a relatively new phenomenon, the term “scalping” has been used to refer to for-profit resellers as early as the 1800s.⁴⁹ Early examples of “buying low and selling high” were seen in railway tickets, Swedish singer Jenny Lind’s tour of the United States in 1851, and performances of Charles Dickens’ 1867 abridged “A Christmas Carol.”⁵⁰ Fast forwarding to the twentieth century, the rise of rock music coupled with massive concert venues gave rise to a further surge in ticket scalping.⁵¹ Artists during this time such as The Rolling Stones and Bruce Springsteen tried and failed to combat scalpers.⁵² By 2000, profits from scalping in the United States were estimated at \$87 million annually.⁵³

With the rise of the internet, so too came a new, more sophisticated method of scalping: ticket bots.⁵⁴ Ticket bots allow scalpers to create massive numbers of accounts to buy tickets and complete the ticket-purchasing process far quicker than what is humanly possible.⁵⁵ Ticket bots have swarmed the ticket industry; in fact, one experiment by the company Queue-it⁵⁶ found that, in a series of concert ticket sales for an undisclosed musical artist, bots and

48. Rivera, *supra* note 1.

49. *Evolution of Scalper Bots Part 1: Origins of Scalping*, NETACEA (Aug. 8, 2024), <https://netacea.com/blog/scalper-bots-part-1-origins> [https://perma.cc/C8YM-X7CE].

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *See Everything You Need to Know About Ticket Bots*, QUEUE-IT (Nov. 6, 2025), <https://queue-it.com/blog/ticket-bots/> [https://perma.cc/4RAM-SEP3].

55. *Id.*

56. Queue-it is a Danish company that allows domain owners to control online traffic on their websites using a virtual waiting room.

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scalpers accounted for over 95% of total online traffic.⁵⁷ Additionally, Queue-it found that ticketing bots generally account for 40% of all online ticketing traffic, jumping to between 60% and 90% for more popular sales.⁵⁸

Scalpers, however, are not alone in gaining a windfall from ticket scalping. Scalping provides a massive profit boost for the secondary, or resale, market.⁵⁹ In fact, the worldwide secondary ticket market is expected to reach \$89.7 billion by 2029,⁶⁰ up from \$15.19 billion in 2019.⁶¹ In response to this vast unregulated market that left consumers with the short end of the stick, Congress eventually decided to step in.

B. *The Better Online Ticket Sales Act*

In response to the rise of scalping bots on online ticketing platforms, Congress enacted the BOTS Act.⁶² Passed in 2016, the BOTS Act is a federal law designed to protect online ticket consumers from paying inflated ticket prices.⁶³ The Act makes it illegal for any person to “circumvent a security measure, access control system, or other technological control or measure . . . used by the ticket issuer to enforce posted event ticket purchasing limits or to maintain the integrity of posted online ticket purchasing order rules.”⁶⁴ The BOTS Act also makes it a crime to “sell or offer any event ticket in interstate commerce” that was obtained in violation of the security

57. Joseph Thwaites, *Behind the Scenes of An Onsale: How Queue-it Blocked 8.3 Million Ticket Bots*, QUEUE-IT (Nov. 10, 2025), <https://queue-it.com/blog/behind-the-scenes-onsale/> [<https://perma.cc/5ZGW-YD2E>].

58. *Id.*

59. See Derek Beres, *The Secondary Ticketing Market is Worth \$15 Billion. How Long Will Fans Have to Pay?*, BIG THINK (Mar. 26, 2019), <https://bigthink.com/neuropsych/scalping/> [<https://perma.cc/SV36-D7MZ>].

60. *Secondary Tickets Market Analysis, Size, and Forecast 2025-2029*, TECHNAVIO (Jan. 2025), <https://www.technavio.com/report/secondary-tickets-market-industry-analysis> [<https://perma.cc/PB77-JRCP>].

61. Beres, *supra* note 59.

62. 15 U.S.C. § 45c (2025).

63. Bureau Consumer Prot., *BOTS Act Compliance: Time for a Refresher?*, FED. TRADE COMM'N (Apr. 11, 2025), <https://www.ftc.gov/business-guidance/blog/2025/04/bots-act-compliance-time-refresher> [<https://perma.cc/T9NE-BEYP>].

64. 15 U.S.C. § 45c(a)(1)(A) (2025).

circumvention rule if the seller knew or should have known the ticket was obtained illegally.⁶⁵

The intent behind the BOTS Act—enabling consumers to purchase tickets online at a fair, uninflated price—was made clear by proponents of the Act.⁶⁶ Jerry Moran, Chair of the Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security, stated in a Senate hearing discussing the Act

of course, perhaps the biggest impact is on the fans What I take issue with, and what this legislation that I and others have introduced seeks to address, is the practice of cutting in line when tickets are offered so that regular consumers don't even have a chance to pay face value for the tickets.⁶⁷

Additionally, after the Act passed the Senate, its sponsor, Senator Chuck Schumer, announced: “By eliminating ‘bots’ . . . we can better ensure those who want to attend shows in the future will not have to pay outrageous, unfair prices.”⁶⁸

There has, however, been lax federal enforcement of the BOTS Act, and the Act has done little to protect consumers against paying inflated ticket prices. Since the Act's passing in 2016, only three cases had been brought under the BOTS Act prior to 2025.⁶⁹ All three cases were brought in 2021 against ticket brokers that used ticket bots to commit thousands of BOTS Act violations.⁷⁰ The brokers would

65. *Id.* § 45c(a)(1)(B).

66. See S. Hrg. 114-614, 114th Cong. (2016).

67. *Id.*

68. Press Release, Senator Chuck Schumer, Schumer Announces His Bi-Partisan “BOTS Act” Just Passed Senate (Dec. 1, 2016), <https://www.schumer.senate.gov/newsroom/press-releases/schumer-announces-his-bi-partisan-bots-act-just-passed-senate-senator-urges-house-to-act-law-finally-cracks-down-on-cyber-scalpers-who-scoop-up-thousands-of-popular-broadway-and-concert-tickets-then-sell-them-at-outrageous-prices> [https://perma.cc/75XS-EVQY].

69. Bureau Consumer Prot., *supra* note 63.

70. Jem Aswad, *Ticket Brokers Agree to Pay \$3.7 Million in Scalping Settlement*, VARIETY (Jan. 22, 2021, at 11:28 ET), <https://variety.com/2021/digital/news/ticket-brokers-agree-to-pay-3-7-million-in-scalping-settlement-1234890585/> [https://perma.cc/JM88-YMEN].

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obtain tickets from Ticketmaster and subsequently resell them on their own platforms at inflated prices, making millions in the process.⁷¹ The cases ultimately settled, but because the three brokers were unable to pay the settlement proposed by the Federal Trade Commission (“FTC”), the initial \$31 million in civil penalties were reduced to \$3.7 million.⁷²

In March 2025, President Donald Trump signed an executive order to “protect fans from exploitive ticket scalping” that called on the FTC to “[r]igorously enforce the BOTS Act.”⁷³ A White House Fact Sheet stated that, in issuing the order, President Trump believed that “Americans [should not] be subjected to exploitive prices and unfair fees.”⁷⁴ While this order may have helped motivate the first lawsuit brought under the BOTS Act in years, the effects of this suit remain to be seen.⁷⁵

Though the ticketing industry saw little enforcement of the BOTS Act in the years following its enactment, the seemingly reinvigorated view on exploitative ticket scalping and the role platforms like Ticketmaster play is a welcome sight for American consumers. In September 2025, the FTC filed a lawsuit against LNE, marking the first enforcement action under the BOTS Act since the initial three actions in 2021.⁷⁶ Although this renewed attention on exploitive ticket prices is a step in the right direction, regulation and enforcement are notably lacking for another practice that drives ticket prices higher: demand-based pricing.

71. *Id.*

72. *FTC Brings First-Ever Cases Under the BOTS Act*, FED. TRADE COMM’N (Jan. 22, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/01/ftc-brings-first-ever-cases-under-bots-act> [<https://perma.cc/5RYD-TXJU>].

73. Exec. Order No. 14254, 90 Fed. Reg. 14699 (Mar. 31, 2025).

74. *Fact Sheet: President Donald J. Trump Will End Price-Gouging by Middlemen in the Entertainment Industry*, WHITE HOUSE (Mar. 31, 2025), <https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-will-end-price-gouging-by-middlemen-in-the-entertainment-industry/> [<https://perma.cc/U6WP-DMB9>].

75. See *infra* Part V.B.

76. See *infra* Part VI.B for a detailed description of this lawsuit.

IV. DEMAND-BASED PRICING: DYNAMIC PRICING, TIERED PRICING, AND THEIR EFFECTS ON TICKET INFLATION

A. *Dynamic Pricing*

One of the terms most often seen in recent news regarding ticket prices is dynamic pricing. Dynamic pricing is the practice of the real-time raising or lowering prices of a product or service through the use of algorithms in connection with factors such as supply and demand.⁷⁷ The idea of dynamic pricing is by no means exclusive to the ticketing industry: Dynamic pricing first “took off” in the airline industry during the late 1970s and early 1980s.⁷⁸ Airlines would adjust ticket prices in real time based on the day of the week, time of day, and the length of time until the flight.⁷⁹ More recently, surge pricing, a form of dynamic pricing where peak rates are implemented during top business hours, has seen widespread implementation in rideshare apps such as Uber.⁸⁰ Additionally, restaurants have considered implementing surge pricing to raise prices during busy times of the day and lower them during slower hours.⁸¹

In the ticketing industry, demand-based pricing is most often tied to LNE.⁸² LNE, which has a near-monopoly in the venue-ticket economy, has previously been alleged to have implemented a dynamic pricing model to automatically adjust ticket prices based on demand.⁸³

77. *Dynamic Pricing vs Surge Pricing: What's the Difference?*, SYMSON, <https://www.symson.com/blog/dynamic-pricing-vs-surge-pricing-whats-the-difference> [https://perma.cc/2WGX-63SL] (last visited Apr. 3, 2026).

78. *The Evolution of Airline Revenue Management: The Impact of Emerging Technologies*, OAG (Apr. 5, 2023), <https://www.oag.com/blog/airline-revenue-management-impact-technologies> [https://perma.cc/9EMY-M36E].

79. *Id.*

80. SYMSON, *supra* note 77.

81. Megan Cerullo, *Dynamic Pricing Was Once the Realm of Uber and Airlines. Now, It's Coming to Restaurants*, CBS NEWS: MONEYWATCH (Mar. 23, 2024), <https://www.cbsnews.com/news/dynamic-pricing-uber-restaurants/> [https://perma.cc/KU4R-AY6Q].

82. Tamila McDonald, *Why is Ticketmaster So Expensive? Ticketmaster Dynamic Pricing, Explained*, ASK, <https://www.ask.com/culture/ticketmaster-dynamic-pricing-explained-5> [https://perma.cc/73PU-K6S3] (last updated May 19, 2025).

83. *Id.*

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Originally, the practice was touted to decrease scalping by discouraging buyers from purchasing large quantities of tickets at set prices before listing them on the secondary market, thus lowering ticket prices for consumers.⁸⁴ However, its implementation led to consumers seeing ticket prices rise, not fall.⁸⁵ Over the 2010s and into the 2020s, LNE's alleged use of dynamic pricing for major artists like Taylor Swift, Oasis, and Bruce Springsteen was met with widespread public outrage.⁸⁶ However, a recent investigation into Ticketmaster's conduct following the Oasis tour raises questions about the company's actual method of pricing,⁸⁷ opening the door to future ticket pricing legal issues.

Following Oasis's announcement of its reunion tour in 2024, Ticketmaster landed itself in hot water, in part due to allegations of dynamic pricing doubling the price of some tickets.⁸⁸ In response to these allegations, the United Kingdom's Competition and Markets Authority ("CMA") launched an investigation into Ticketmaster's conduct during Oasis's ticket sale.⁸⁹ One year later, the CMA

84. *See id.*

85. *See id.*

86. Eamonn Forde, *The Gig Economy: Ticket Inflation is Getting Worse, So Where Does All the Money Go?*, *GUARDIAN: CULTURE* (Jan. 20, 2025, at 05:00 ET), <https://www.theguardian.com/culture/2025/jan/20/gig-concert-ticket-prices-dynamic-pricing-oasis-taylor-swift-eras> [https://perma.cc/8L25-3VTH].

87. *See* Daniel Tencer, *Ticketmaster Didn't Use "Dynamic Pricing" For Oasis Concerts In the UK, Will Change How It Sells Tickets in the Market, Watchdog Says*, *MUSIC BUS. WORLDWIDE* (Sep. 25, 2025), <https://www.musicbusinessworldwide.com/ticketmaster-didnt-use-dynamic-pricing-for-oasis-concerts-will-change-how-it-sells-tickets-in-uk-watchdog-says/> [https://perma.cc/PB2M-BG7X]; *see also infra* Part V.B.

88. Rob Davies, *Oasis Tickets: What is Dynamic Pricing and Why Is It Used for Live Music?*, *GUARDIAN: MUSIC* (Sep. 1, 2024, at 08:24 ET), <https://www.theguardian.com/music/article/2024/sep/01/oasis-tickets-dynamic-pricing-live-music> [https://perma.cc/4VAF-SAZ8].

89. Press Release, Competition & Mkts. Auth., U.K. Gov., *CMA Secures Changes from Ticketmaster Following Oasis Tickets Investigation* (Sep. 25, 2025), <https://www.gov.uk/government/news/cma-secures-changes-from-ticketmaster-following-oasis-tickets-investigation> [https://perma.cc/EU9H-9TDL].

determined that Ticketmaster had not engaged in dynamic pricing but instead in “tiered pricing.”⁹⁰

B. Tiered Pricing

While the CMA ultimately only found evidence of tiered pricing, the backlash surrounding Oasis’s ticket sale landed the term “dynamic pricing” on the Oxford University Press’s shortlist for the 2024 Word of the Year.⁹¹ While similar, “tiered pricing” is considered to be separate from dynamic pricing because, technically, the price for the ticket never changes in real time like it would in a dynamic pricing scheme.⁹² Instead, the ticket prices or “tiers” are set in advance, as are the numbers of ticket sales that will be allowed in each tier.⁹³ There is, reasonably, some confusion as to the difference between pricing methods, and critics have used the terms interchangeably when referring to Ticketmaster’s use of platinum tickets.⁹⁴

Contradicting information from Ticketmaster itself further bolsters the confusion regarding how the company sets its prices. In a now-taken-down page on Ticketmaster’s website, the company previously claimed: “In some instances, events on our platform may have tickets that are ‘market-priced,’ so ticket and fee prices may adjust over time based on demand. This is like how airline tickets and hotel rooms are sold and is commonly referred to as ‘Dynamic

90. *Id.*

91. Dorian Lynskey, *Who Is Behind the Great Rock and Roll Ripoff? How Ticketmaster Swallowed the Live Entertainment Scene*, GUARDIAN: MONEY (May 4, 2025, at 01:00 ET), <https://www.theguardian.com/money/2025/may/04/how-ticketmaster-swallowed-the-live-entertainment-scene> [<https://perma.cc/LP65-DX85>].

92. Kat Monroe, *FANFAQ: Dynamic Pricing vs. Platinum Tickets. What’s the Difference?*, FANGIRL FORWARD (Jan. 7, 2026), <https://www.fangirlforward.com/p/dynamic-platinum-pricing> [<https://perma.cc/KQ4D-9CMV>].

93. *Id.*

94. Maïthé Chini, *Up to Seven Times More Expensive: Ticketmaster Under Fire for “Abusive” Dynamic Pricing*, BRUSSELS TIMES (July 4, 2025), <https://www.brusselstimes.com/1655367/up-to-seven-times-more-expensive-ticketmaster-under-fire-for-abusive-dynamic-pricing> [<https://perma.cc/ZUQ8-9F7Z>].

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Pricing.’”⁹⁵ As of January 30, 2026, however, Ticketmaster lists on its website that it “does not use any algorithmic surge pricing technology,”⁹⁶ in contrast to its previous claim.

During the CMA investigation, UK Members of Parliament and the Business and Trade Committee questioned Ticketmaster’s UK managing director, Andrew Parsons.⁹⁷ During the questioning, Parsons denied the claim by committee chairman Liam Byrne that by using tiered pricing and increasing the price of sale at checkout, Ticketmaster was committing “the same sin [the platform had criticized] scalpers for.”⁹⁸ Parsons instead explained that prices on the platform did not respond algorithmically to demand but were set in advance through collaboration with artists, event organizers, and their teams.⁹⁹ When questioned about occurrences of drastic price increases during ticket sales such as Paul McCartney’s Got Back Tour, where standard ticket prices originally started from £30.95 but rose up to £592, Parsons responded: “[T]hose prices haven’t changed, there’s no technology-driven change to those prices. They are prices to which humans have agreed to. It’s not a computer or bot behind it.”¹⁰⁰

Because the link between tiered pricing and the use of “platinum” tickets constituted tiered pricing, previous protests against dynamic

95. Jason Koebler, *Blink-182 Tickets Are So Expensive Because Ticketmaster is a Monopoly and Now Everyone Pays Ticket Broker Prices*, VICE: TECH (Oct. 20, 2022, at 14:20 ET), <https://www.vice.com/en/article/blink-182-tickets-are-so-expensive-because-ticketmaster-is-a-disastrous-monopoly-and-now-everyone-pays-ticket-broker-prices/> [<https://perma.cc/VL6M-PHSC>]; Jadrian Wooten, *Ticketing Power Takes Center Stage*, MONDAY MORNING ECONOMIST (Nov. 21, 2022), <https://www.mondayeconomist.com/p/ticketmaster> [<https://perma.cc/Q3QG-6KDU>].

96. *What Are Platinum Tickets?*, TICKETMASTER, <https://help.ticketmaster.com/hc/en-us/articles/9782440112017-What-are-Platinum-Tickets> [<https://perma.cc/TP2Q-VPN7>] (last visited Feb. 9, 2026).

97. Josie Clarke, *Ticketmaster Does Not Use Dynamic Pricing, Boss Tells MPs*, INDEPENDENT (Feb. 4, 2025, at 12:34 ET), <https://www.the-independent.com/news/business/ticketmaster-does-not-use-dynamic-pricing-boss-tells-mps-b2692133.html> [<https://perma.cc/U9K8-BRE3>].

98. *Id.*

99. *Id.*

100. *Id.*

pricing schemes that involved platinum tickets may be misled.¹⁰¹ Despite the confusion between the two pricing strategies and which exactly Ticketmaster uses, both lead to the same outcome: Inflated ticket prices for fans. When Congress enacted the BOTS Act, it sought to avoid this exact outcome.

V. WHAT IS BEING DONE?

In response to allegations of misconduct, various federal enforcement actions have been taken against LNE, with varying degrees of success. The DOJ has brought antitrust claims against the combined companies, alleging that LNE uses its vast market share to drive out competition and lock venues into restrictive long-term contracts. Likewise, the FTC has brought suit, claiming that the company engages in unfair and deceptive trade practices regarding its fees. The FTC has also brought claims under the BOTS Act, alleging collusion with scalpers and ticket brokers. Finally, federal and state legislatures have proposed laws responding to LNE's use of

¹⁰¹ See, e.g., Chris Willman, *Bruce Springsteen's Manager Defends Controversial 2023 Tour Ticketing Rollout*, VARIETY (July 26, 2022, at 15:04 ET), <https://variety.com/2022/music/news/bruce-springsteen-manager-statement-tour-platinum-tickets-controversy-1235326719/> [<https://perma.cc/ZL8Q-VK V9>] (referring to platinum tickets as “dynamically priced”). One of the most notorious examples of widespread claims of dynamic pricing was during Taylor Swift's Eras Tour, though more recent news claims that she refused to take part in the practice at all. Compare Timothy Noah, *Go Ahead and Blame Taylor Swift for Ticket Prices*, NEW REPUBLIC (Nov. 18, 2022), <https://newrepublic.com/article/168988/taylor-swift-ticketmaster-dynamic-pricing> [<https://perma.cc/CHB7-UKLM>] (“Swift was no bystander to Tuesday's meltdown. Like a growing number of popular entertainers and businesses, she and her representatives chose in advance to address what she knew would be a huge demand through dynamic pricing . . . Tuesday's Taylor Swift sale was for a reserved segment of available concert seats sold in advance of other seats through Ticketmaster's dynamic pricing system.”), with Anagrícel Duran, *Taylor Swift Reportedly Refused to Use Dynamic Pricing for the 'Eras' Tour*, NME (Oct. 29, 2024), <https://www.nme.com/news/music/taylor-swift-reportedly-refused-to-use-dynamic-ticket-pricing-for-the-eras-tour-3807645> [<https://perma.cc/YP7X-XTKQ>] (“[Taylor Swift] had an opportunity to dynamically price her tickets, and she didn't want to do that to her fans. She specifically said, ‘No dynamic pricing.’ She was willing to make decisions that potentially cut into her income because she was taking a long-term view of her career.”).

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demand-based pricing, although many do not address the pricing practice directly.

A. *The DOJ's Antitrust Suit*

On May 23, 2024, the DOJ, along with thirty state attorneys general, brought an antitrust lawsuit against Ticketmaster and Live Nation in the Southern District of New York.¹⁰² Former Attorney General Merrick Garland said, “The result [of Ticketmaster engaging in unlawful, anticompetitive conduct] is that fans pay more in fees, artists have fewer opportunities to play concerts, smaller promoters get squeezed out, and venues have fewer real choices for ticketing services. It is time to break up Live Nation-Ticketmaster.”¹⁰³ The complaint alleges that Ticketmaster uses its market power to collude with would-be competitors; keep rivals from expanding within the concert promotions market; use a “carrot and stick” technique to entice venues into long-term exclusive contracts, lest the venues lose access to valuable Ticketmaster assets, including major concerts; use those long-term contracts to foreclose competitors from the market; restrict artists from using the company’s venues unless Live Nation is paid to be the artists’ promoter; and strategically acquire venues, promoters, and other “threats” to its network in order to eliminate competitors.¹⁰⁴

The DOJ argues that due to these anticompetitive practices

[f]ans have paid more in fees that are not transparent, not negotiable, and cannot be comparison-shopped because there are no other options; [f]ans have been denied access to the benefits a competitive process would deliver, such as more choices in concerts and innovative fan-friendly ticketing options; [a]rtists have had fewer opportunities to play concerts, and fewer

102. Press Release, U.S. Dep’t of Just., Justice Department Sues Live Nation-Ticketmaster for Monopolizing Markets Across the Live Concert Industry (May 23, 2024), <https://www.justice.gov/archives/opa/pr/justice-department-sues-live-nation-ticketmaster-monopolizing-markets-across-live-concert> [https://perma.cc/TNW3-65XJ].

103. *Id.*

104. See Live Nation Ent., *supra* note 47, at 31, 34, 37, 40, 45, 46–47.

real choices for promoting their concerts, selling tickets to their own shows, and performing at certain venues; and [v]enues have fewer real choices for obtaining concerts and ticketing services, and many are reluctant to disrupt the status quo due to the financial risk.¹⁰⁵

Former Deputy Attorney General Lisa Monaco described the suit as “a step forward in making this era of live music more accessible,”¹⁰⁶ Ticketmaster competitors also voiced their approval of the suit, with SeatGeek CEO Jack Groetzinger announcing, “We are hopeful that the Department of Justice’s antitrust lawsuit to break up the Live Nation-Ticketmaster monopoly will restore fair market competition to live entertainment. We believe this action will drive innovation and improve ticketing for fans”¹⁰⁷

However, on March 9, 2026, the DOJ settled its suit against LNE.¹⁰⁸ The settlement requires LNE to: (1) submit all acquisitions to the DOJ for approval; (2) cap fees at 15% for tickets sold through its venues; and (3) forgo exclusivity deals with large venues.¹⁰⁹ The settlement does not, however, require LNE to split up into its two original entities as the suit had intended.¹¹⁰ Interestingly, DOJ antitrust chief Gail Slater stepped down less than a month before the settlement, with some sources close to the matter reporting that she was ousted by the Trump

105. *Id.* at 54.

106. U.S. Dep’t of Just., *supra* note 102.

107. See Press Release, Jack Groetzinger, CEO, SeatGeek, SeatGeek Statement on Department of Justice Antitrust Division Lawsuit Against Live Nation-Ticketmaster (May 22, 2024), <https://seatgeek.com/press/seatgeek-statement-on-department-of-justice-antitrust-division-lawsuit-against-live-nation-ticketmaster> [<https://perma.cc/2Y57-TPMK> (staff-uploaded)].

108. Leah Nysten & Josh Sisco, *Live Nation Gets to Keep Ticketmaster in Surprise DOJ Settlement*, BLOOMBERG L. (Mar. 9, 2026, at 17:00 ET), <https://www.bloomberglaw.com/product/blaw/bloombergterminalnews/bloomberg-terminal-news/TBN5HGKGCTM5> [<https://perma.cc/D5DD-27SK> (staff-uploaded, dark archive)].

109. *Id.*

110. *Id.*

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administration.¹¹¹ Slater's Principal Deputy Mark Hamer, who resigned just three days before Slater, alleged that the DOJ's enforcement decisions have been based on lobbyists rather than law, leading to "perverted justice" that has been "inconsistent with the rule of law."¹¹²

While some states joined the DOJ in settling with LNE, many continued the antitrust suit.¹¹³ A coalition of over thirty state attorneys general proceeded in the trial, and, shortly before the publication of this Note, the jury reached a verdict finding that LNE violated monopoly and antitrust laws.¹¹⁴ This is discussed in more detail in Part VI.A.

B. *The FTC's Recent Enforcement of the BOTS Act*

Since President Trump issued his executive order in March 2025, the FTC and the attorneys general of Virginia, Utah, Florida, Tennessee, Nebraska, Illinois, and Colorado have brought an additional case against LNE under the BOTS Act.¹¹⁵ In this enforcement action, the FTC alleges that Ticketmaster has continued to enable ticket scalping on its platform, in addition to charging hidden mandatory fees on ticket sales, with the fees alone totaling \$16.4 billion from 2019 to 2024.¹¹⁶

111. See Stave Kopack & Daniel Arkin, *Justice Department's Antitrust Chief Says She's Leaving, Effective Immediately*, NBC News (Feb. 12, 2026, at 13:02 ET), <https://www.nbcnews.com/business/business-news/justice-antitrust-chief-slater-leaving-rcna258759> [https://perma.cc/FRS8-PBMH]; Press Release, Jamie Raskin, Ranking Member, House Judiciary Committee, Demand for Answers Following Ouster of DOJ Antitrust Chief (Feb. 25, 2026), <https://democrats-judiciary.house.gov/media-center/press-releases/raskin-nadler-demand-answers-following-ouster-of-doj-antitrust-chief-gail-slater-and-increasing-political-interference-with-doj-merger-reviews> [https://perma.cc/R5RY-ZYTT].

112. Raskin, *supra* note 111.

113. Ben Sisario, *Jury Finds Live Nation Acts as a Monopoly in a Victory for States*, N.Y. Times (Apr. 15, 2026, at 09:18 ET), <https://www.nytimes.com/2026/04/15/arts/music/live-nation-antitrust-trial-verdict-monopoly.html> [https://perma.cc/3X4R-37E9 (staff-uploaded, dark archive)].

114. *Id.*

115. Fed. Trade Comm'n, *supra* note 14.

116. *Id.*

In its complaint, the FTC focuses on two alleged practices. First, that Ticketmaster violated the prohibitions on “unfair and deceptive acts or practices in or affecting commerce” and “unfair methods of competition” as outlawed by Section 5(a) of the FTC Act.¹¹⁷ The FTC asserts that Ticketmaster did this through marketing “deceptively low” ticket prices while charging a much higher rate in reality.¹¹⁸ This price increase does not relate to the ticket price itself, but instead reflects mandatory fees imposed on sales through Ticketmaster, which can raise prices by 30% or more.¹¹⁹

This practice is often referred to as “drip pricing,” in which sellers advertise one price but “drip” in additional charges as customers move through the buying process.¹²⁰ The complaint further alleges that Ticketmaster itself has referred to the practice as a “bait and switch” approach in internal presentations, and that it presented an “MVP” award to an employee whose testing proved Ticketmaster would “make more money if [it] optimized the fee display by making it less transparent.”¹²¹

Second, the FTC alleges that Ticketmaster “deceptively represent[s] that they impose strict ticket limits for individual events” and “routinely allow,” and even encourage, ticket brokers to circumvent ticket limits and restrictions to boost the platform’s profits in violation of the BOTS Act.¹²² Contrary to Ticketmaster’s ticket limits and purchasing rules, the FTC alleges that the platform has known about and aided brokers who purchase vast numbers of

117. Complaint at 55, *F.T.C. v. Live Nation Ent., Inc.*, No. 2:25-CV-08884 (C.D. Cal. Sep. 18, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/FTCVLiveNation-Ticketmaster-Complaint-filed.pdf [<https://perma.cc/B8GD-AQ7U>]; 15 U.S.C. § 45(a) (2025).

118. *F.T.C.*, *supra* note 117, at 7.

119. *Id.*

120. *The Economics of Drip Pricing*, FED. TRADE COMM’N, <https://www.ftc.gov/news-events/events/2012/05/economics-drip-pricing> [<https://perma.cc/L3VV-Q5YA>] (last visited Feb. 26, 2026); see also *Sabotage: FTC Sues Ticketmaster and Live Nation Over Deceptive Pricing, Scalping and Bot Practices*, DAILY JOURNAL (Oct. 10, 2025), <https://www.dailyjournal.com/articles/387964-sabotage-ftc-sues-ticketmaster-and-live-nation-over-deceptive-pricing-scalping-and-bot-practices> [<https://perma.cc/7WRR-68QD>].

121. Complaint, *supra* note 117, at 7, 30 (internal quotations omitted).

122. *Id.* at 8.

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tickets in violation of the BOTS Act because it allows Ticketmaster to “triple dip” into fees on those tickets.¹²³ Because secondary resale tickets are also sold on Ticketmaster, the platform is able to collect fees from a ticket broker once when the ticket is originally bought in the primary market, from the ticket broker again when the ticket is listed for resale, and a third time from consumers when the ticket is purchased on the secondary market.¹²⁴ The FTC further alleges that in the first quarter of 2022, 63% of the money spent on Ticketmaster’s resale tickets were on tickets listed by brokers, with that number rising to over 78% in the first quarter of 2023.¹²⁵

In response to the suit, executive director of the National Independent Venue Association Stephen Parker said

[b]y turning a blind eye to scalpers, even giving them the tools to bypass limits and harvest tickets, [LNE] has acted as the promoter, the primary ticket seller, the artists’ manager, and the scalper. Independent venues and promoters are on the frontlines of this broken system, and it is fans and artists who ultimately pay the price.¹²⁶

FTC Chairman Andrew Ferguson likewise asserted after the complaint was filed that the lawsuit was a “monumental step” in the fight for fair-priced tickets.¹²⁷

Ticketmaster filed a motion to dismiss the case in January 2026, claiming that the suit “reflects an egregious instance of agency

123. *See id.* at 37–38, 39.

124. *Id.* at 39.

125. *Id.* at 39–40.

126. Walden Green, *Federal Trade Commission Sues Ticketmaster and Live Nation Entertainment*, MSN (Sep. 18, 2025), <https://www.msn.com/en-us/money/news/federal-trade-commission-sues-ticketmaster-and-live-nation-entertainment/ar-AA1MRICR> [<https://perma.cc/BzH5-AJH2>].

127. Fed. Trade Comm’n, *supra* note 14 (“It should not cost an arm and a leg to take the family to a baseball game or attend your favorite musician’s show. The Trump-Vance FTC is working hard to ensure that fans have a shot at buying fair-priced tickets, and today’s lawsuit is a monumental step in that direction.”).

overreach.”¹²⁸ The motion argues that the BOTS Act prohibits *selling* tickets obtained in violation of its provisions, and that Ticketmaster “merely provides a platform where consumers list tickets for resale.”¹²⁹ The motion further argues that purchases made on Ticketmaster that violated the platform’s ticket limits did not violate the BOTS Act because these limits were not technical controls or measures as required by the Act.¹³⁰ Instead, the motion argues, the BOTS Act prohibits circumventing security systems that themselves enforce ticket-purchasing limits.¹³¹ Additionally, Ticketmaster’s motion alludes to the fact that even if the platform had allowed brokers to exceed posted limits, the brokers would not necessarily be

128. Motion to Dismiss at 12, *F.T.C. v. Live Nation Ent., Inc.*, No. 2:25-CV-08884 (C.D. Cal. Jan. 6, 2026), https://www.bloomberglaw.com/public/desktop/document/FederalTradeCommissionetalvLiveNationEntertainmentIncetalDocketNo/r?doc_id=XPPE8BB1209MHBOVB66HGOoLNR [<https://perma.cc/H4NU-SRRZ> (staff-uploaded)].

129. *Id.* at 19 (internal quotations omitted).

130. *Id.* at 21–22.

131. *Id.* at 22 (“Plaintiffs fail to connect their BOTS Act claim to a particular technological control or measure. By conflating technological controls and ticket limits, Plaintiffs read “technological control or measure” out of the Act . . .”). *But see* *F.T.C.*, *supra* note 117, at 35–36, 38.

Ticketmaster’s array of security measures for enforcing event ticket limits also includes its TicketCounter system . . . Among other things, TicketCounter automatically blocks multiple purchase attempts from the same IP address and analyzes patterns to identify multiple accounts acting in concert to evade purchase limits. And, at the direction of artists and event promoters, Defendants will sometimes look at purchases after they were made to detect whether a single person or entity attempted to exceed purchase limits by using multiple Ticketmaster accounts or transactions To bypass ticket limits by using multiple accounts, many brokers use software that allows one person to log into multiple accounts at once on the same computer without being detected by Defendants’ automatic controls. This software generates proxy IP addresses so that it appears that each of the accounts is logged on from a different location, thereby evading Ticketmaster’s automatic screening measures.

Id.

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“circumventing” any controls to do so because the brokers and the platform would be essentially working in tandem.¹³²

On January 30, 2026, in response to Ticketmaster’s assertion of immunity from the BOTS Act, seven members of the U.S. Senate—most of whom had a hand in the enactment of the BOTS Act—filed an amicus brief in support of the FTC.¹³³ The brief emphasizes that the Amici had “expressly” designed the BOTS Act to counteract “scalpers ‘unearned profits and platforms’ [and] ‘triple dip[ed]’ fees [from coming] out of the pockets of ordinary Americans”¹³⁴ The Amici assert that Ticketmaster’s argument depended upon a “stunted, artificially narrow understanding of the word ‘sell,’” and argue the BOTS Act prohibits anyone, including ticket platforms, from selling tickets in violation of the Act.¹³⁵

Amici also criticize Ticketmaster’s allusion that any complacency by the platform in ticket scalping schemes negates the “circumvention” element found in the Act, arguing this reasoning would allow for collusive conduct between scalpers and ticket platforms that would harm the very consumers the BOTS Act was intended to protect.¹³⁶ The Amici put forward this same rationale when denouncing Ticketmaster’s argument that the BOTS Act was, in fact, designed to protect ticket *platforms* from bad actors.¹³⁷ Throughout their brief, the Amici stress the notion that a ruling in favor of Ticketmaster would essentially nullify the BOTS Act and its mission to protect consumers

132. *See id.* at 23. The motion also maintained that Ticketmaster did not engage in deceptive tactics regarding its ticket prices and fees, stating that final purchase prices on the platform were inclusive of fees and that the platform presented disclosures that final prices would include fees. *Id.* at 28–29.

133. Brief for Senator Marsha Blackburn et al. as Amicus Curie Supporting Petitioners, *FTC. v. Live Nation Ent., Inc.*, No. 2:25-CV-08884 (C.D. Cal. Jan. 30, 2025), <https://business.cch.com/ald/FTCvLiveNationEntertainmentIncProposedAmiciCuriaeBrief.pdf> [<https://perma.cc/AZ8U-HJMV>].

134. *Id.* at 1.

135. *Id.* at 2, 4.

136. *Id.* at 11.

137. *Id.*

from overpaying for tickets.¹³⁸ As of the writing of this Note, the suit is currently pending.

C. *New and Proposed Laws (Somewhat) Addressing Demand-Based Pricing*

Federal and state lawmakers have proposed multiple laws in response to widespread public criticism of LNE's use of demand-based pricing models, though their effect on ticket prices may be minuscule. In 2023, the Better Oversight of Stub Sales and Strengthening Well Informed and Fair Transactions for Audiences of Concert Ticketing Act ("BOSS and SWIFT Act")¹³⁹ was introduced in the House of Representatives by Bill Pascrell, the same Representative who was vocally outspoken against Ticketmaster's merger with Live Nation in 2010. Introduced in response to Ticketmaster's sales controversies involving Taylor Swift and Bruce Springsteen, the BOSS and SWIFT Act was ultimately never passed.¹⁴⁰ This bill would have required conspicuous disclosures to consumers of a ticket's total price, including any fees, and would not have allowed sellers to change the price of a ticket during a ticketing session without clear notice to buyers that the price had changed.¹⁴¹

Introduced in the Senate in early 2025, the Transparency In Charges for Key Events Ticketing Act ("TICKET Act") similarly seeks to ensure ticket buyers have adequate knowledge of what exactly they are paying for, but lacks a provision concerning ticket price increases.¹⁴² The TICKET Act would require ticket issuers and secondary market issuers to conspicuously display the total price of a ticket to interested customers and provide an itemized list of the base ticket price, along with any additional fees.¹⁴³ It would also require

138. See *id.* at 2 ("If the Court holds for Ticketmaster, the law that Amici worked hard to enact with overwhelming bipartisan support would be defanged to the detriment of American eventgoers, who would be forced to keep paying exorbitant markups to scalpers and fees to Ticketmaster.").

139. H.R. 3660, 118th Cong. (2023).

140. Dave Clark, *Sen. Blumenthal Urges Trump to Back BOSS & SWIFT Act Ticket Reforms*, TICKETNEWS, <https://www.ticketnews.com/2025/04/sen-blumenthal-urges-trump-to-back-boss-swift-act-ticket-reforms/> [https://perma.cc/8BZ3-K2ZW] (last visited Apr. 11, 2026).

141. *Id.* § 3(4).

142. See S. 281, 119th Cong. (2025).

143. *Id.* § 2.

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secondary resellers to disclose to consumers that they engage in secondary ticket sales.¹⁴⁴ Additionally, the TICKET Act would require the FTC to submit to Congress an enforcement report on the BOTS Act, which would include enforcement actions, challenges with enforcement, and recommendations on improving enforcement and compliance.¹⁴⁵

The Rule on Unfair or Deceptive Fees, promulgated by the FTC in early 2025, likewise emphasizes that consumers have full knowledge of what they are paying for.¹⁴⁶ Similar to the acts proposed to Congress above, this Rule prohibits hidden and misleading fees by requiring transactions involving live-event tickets to clearly and conspicuously present customers with the total ticket price and the “nature, purpose, and amount of any fee imposed on the transaction.”¹⁴⁷ The FTC claims that the Rule will save Americans billions of dollars and save consumers “up to 53 million hours per year of wasted time spent searching for the total price for live-event tickets.”¹⁴⁸

Individual states have also turned their eyes towards consumer protection laws regarding ticket sales. A 2025 North Carolina law calls for clear and conspicuous disclosure of total ticket prices and fees.¹⁴⁹ North Carolina also directly addresses the cause of widespread ticket-buyer backlash: price hikes during the purchasing process. The law prohibits ticket issuers and resellers from increasing the price of a ticket during a ticketing session except by addition of “[a]ctual charges required to deliver a non-electronic ticket[,] . . . [t]axes or fees imposed on the transaction by any government [or a] reasonable fee for processing the order.”¹⁵⁰ Similarly, Minnesota also enacted a law in 2025

144. *Id.* § 4.

145. *Id.* § 6.

146. 16 C.F.R. § 464 (2025).

147. *Id.* § 464.2

148. *Federal Trade Commission Announces Bipartisan Rule Banning Junk Ticket and Hotel Fees*, FED. TRADE COMM'N (Dec. 17, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/12/federal-trade-commission-announces-bipartisan-rule-banning-junk-ticket-hotel-fees> [<https://perma.cc/AB7F-YZ3M>].

149. N.C. GEN. STAT. § 75-44 (2025).

150. *Id.* § 75-44(b)(4).

calling for price disclosures and prohibiting the increase of ticket prices once they are shown to a customer.¹⁵¹

The United Kingdom's CMA voiced a number of concerns related to its investigation into Ticketmaster for the Oasis tour fiasco.¹⁵² Namely, that Ticketmaster did not tell fans waiting in the queues that the same tickets were being sold for different prices, and that the "platinum" tickets were being sold at nearly two and a half times the price of a normal ticket with no additional benefits.¹⁵³ Following the investigation, the CMA obtained a number of formal commitments from Ticketmaster that require the company to notify fans twenty-four hours in advance if a tiered pricing system is being used; provide more information about ticket prices during online queues, including the price range of tickets and notification when cheaper tickets sell out; stop using misleading ticket labels like "platinum" that give false impressions about a ticket's value; and regularly report to the CMA over the next two years to ensure "robust compliance."¹⁵⁴

The United Kingdom has also announced aggressive plans to make it illegal for concert tickets, as well as other live-event tickets, to be resold for more than their original cost.¹⁵⁵ Australia has considered banning demand-based pricing entirely, calling the practice "deceptive, unfair, and un-Australian."¹⁵⁶ Australian legislators advanced this proposition after a number of Australian ticket sales

151. MINN. STAT. § 325F.676 (2025).

152. Competition & Mkts. Auth., *supra* note 89.

153. *Id.*

154. *Id.*

155. Press Release, Dep't Bus. & Trade, U.K., Gov., Government Bans Ticket Touting to Protect Fans from Rip-Off Prices (Nov. 19, 2025), <https://www.gov.uk/government/news/government-bans-ticket-touting-to-protect-fans-from-rip-off-prices> [<https://perma.cc/WK4T-3NMP>].

156. Stephen Jones, *Consultation Underway to Ban Business Practices Ripping Off Australians*, AUSTL. TREASURY (Nov. 15, 2024), <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/consultation-underway-ban-business-practices-ripping> [<https://perma.cc/JXZ8-ERSM>].

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were affected by demand-based pricing models, including Green Day, Pearl Jam, and the Australian Open.¹⁵⁷

VI. THE FUTURE OF TICKET INFLATION

A. *LNE's Antitrust Verdict Is a Step in the Right Direction, and the FTC's Suit Must Continue Down this Path to Enact Meaningful Change in the Ticket Industry*

Deputy Assistant Attorney General Mark Hamer's allegations that the DOJ's enforcement has been based on lobbyists rather than the law give cause for concern.¹⁵⁸ Before Slater's resignation as the DOJ's antitrust chief, the DOJ fired two of her top deputies for what it cited as "insubordination," with one of the deputies later explaining they had pushed back against a controversial acquisition of Juniper Networks by Hewlett Packard Enterprises ("HP").¹⁵⁹ Other companies subject to antitrust actions are reportedly looking to hire lobbyists close to the current political regime.¹⁶⁰ This implicates the ticketing industry, as Mike Davis, a lobbyist who worked on the controversial HP deal, is reportedly working for LNE.¹⁶¹

As of April 16, 2026, the coalition of over thirty states that continued pursuing the antitrust suit against LNE prevailed on their claims.¹⁶² The judge presiding over the case, Arun Subramanian, will

157. Josh Butler, *Controversial Dynamic Ticket Pricing to Be Banned in Australia Amid Sweeping Federal Crackdown*, GUARDIAN (Oct. 15, 2024, at 10:00 ET), <https://www.theguardian.com/australia-news/2024/oct/16/dynamic-pricing-ban-australia-tickets-event-fees-albanese-government> [https://perma.cc/2Q4F-CGFU].

158. See Raskin, *supra* note III.

159. Lauren Feiner, *Will Trump's DOJ Actually Take on Ticketmaster?*, THE VERGE (Feb. 23, 2026, 15:37 ET), <https://www.theverge.com/policy/883155/doj-antitrust-division-gail-slater-live-nation-ticketmaster-trial> [https://perma.cc/2CSN-34AH (dark archive)].

160. Dave Michaels & Annie Linskey, *MAGA Antitrust Agenda Under Siege by Lobbyists Close to Trump*, WALL ST. J. (Aug. 6, 2025, at 18:19 ET), <https://www.wsj.com/us-news/law/maga-antitrust-agenda-under-siege-by-lobbyists-close-to-trump-18558898> [https://perma.cc/FQ5Q-BNJY (staff-uploaded, dark archive)].

161. *Id.*

162. Sisario, *supra* note II3.

determine remedies and overall money damages in a separate proceeding, with potential remedies including large divestments or even the breakup of LNE into its two original entities.¹⁶³ Attorney General of Massachusetts, Andrea Joy Cambell, described the DOJ's settlement as "fall[ing] far short of protecting consumers, artists and venues from the harms that Live Nation and Ticketmaster have caused."¹⁶⁴ Former top deputy of the DOJ's antitrust division, Roger Alford, described the federal government's settlement with LNE as a "major missed opportunity."¹⁶⁵ Continuing this sentiment, Alford added: "To the extent the Department of Justice is not going to exercise its responsibility to enforce the antitrust laws, we now have confidence that the state attorneys general and the private bar will pick up the baton."¹⁶⁶

Settlement has proven to be ineffective in the past, and many of the provisions of the DOJ's most recent settlement—such as barring LNE from requiring exclusivity from venues—largely mirror the ineffective requirements of the 2019 settlement. LNE's breach of the terms of its 2019 settlement with the DOJ is precisely what led to the current suit. Rather than agreeing to terms that risk being purely cosmetic, this antitrust victory provides a huge leap in the effort to protect consumers from ticket inflation. While it remains too early to determine whether the FTC's suit under the BOTS Act will advance to trial, its focus on consumer protection tracks that of the antitrust suit.

As such, the FTC must use the momentum stemming from this verdict to pursue a verdict of its own. The agency has the opportunity to show the ticketing industry that the BOTS Act and its emphasis on consumer protection still hold true. Lax enforcement has led to the Act existing largely on paper. Bad actors have taken notice, and the proliferation of scalping bots and other scalping practices (such as LNE's alleged collusion with scalpers) in recent years suggest the Act's

163. Ben Sisario, *Coalition of States Will Carry on Live Nation Antitrust Case*, N.Y. TIMES (Mar. 13, 2026), <https://www.nytimes.com/2026/03/13/arts/music/live-nation-ticketmaster-antitrust-case-states.html> [<https://perma.cc/YZL4-AQN6> (staff-uploaded, dark archive)].

164. *Id.*

165. *Id.*

166. *Id.*

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deterrent effect is minimal at best.¹⁶⁷ This lawsuit provides the FTC with a chance to demonstrate to these bad actors that the BOTS Act carries real consequences.

While the antitrust verdict against LNE comes as a welcome surprise in a ticketing industry that has largely faced settlements and lax enforcement, it is but one step in the right direction to ensure that ticket buyers are not taken advantage of. Meaningful, structural change must be implemented as a result of this verdict, and other actions such as the FTC's suit must use this momentum in pursuing further victories against companies like LNE that abuse their market power. The ineffectiveness of previous settlements is clear, but the commitment of the state attorneys general party to the antitrust acts as a guidepost which future actions must strive to follow if ticket buyers are to be afforded the protections they have long been promised.

B. *Laws Addressing the Use of Demand-Based Pricing in the Ticket Industry Likewise Need to be Passed to Protect Consumers from Unnecessary Ticket Inflation*

While demand-based pricing is attracting growing recognition (and criticism), the question remains whether these pricing models will continue to be a mainstay in the ticketing industry. From an economic perspective, these pricing models can often be considered a good thing. Using a demand-based pricing model can, in theory, balance supply and demand and maximize profitability.¹⁶⁸ For this reason, outright bans on demand-based pricing may prove difficult to sustain, at least in the United States. At the same time, artists increasingly find themselves in a complicated role regarding ticket prices. When negotiating with Ticketmaster, artists can opt in or out of demand-based pricing.¹⁶⁹ Ticketmaster also allows artists to cap the

¹⁶⁷. See *supra* Part V.B.

¹⁶⁸. Kate Gibson, *Dynamic Pricing: What It Is & Why It's Important*, HARV. BUS. SCH. (May 10, 2024), <https://online.hbs.edu/blog/post/what-is-dynamic-pricing> [<https://perma.cc/7DLG-KWG8>].

¹⁶⁹. Cody Mello-Klein, *What is Dynamic Pricing and Why is it Hiking Ticket Prices for Oasis, Taylor Swift and Your Favorite Artist?*, NE. GLOB. NEWS (Oct. 2, 2024), <https://news.northeastern.edu/2024/10/02/dynamic-pricing-ticketmaster-oas-is-taylor-swift/> [<https://perma.cc/3WNF-N26F>].

resale value of their tickets.¹⁷⁰ As such, artists can often find themselves in an awkward situation: choosing their fans or their profit.¹⁷¹

Recent federal legislative and regulatory efforts have largely focused on transparency and ensuring consumers have full knowledge of what they are paying for, rather than addressing demand-based pricing directly.¹⁷² Under laws like the proposed TICKET Act, platforms have no responsibility to notify consumers that ticket prices have increased, so long as the price is conspicuously displayed.¹⁷³ These laws focusing on price transparency have garnered criticism over the fact they will not actually reduce what consumers are paying—but instead they will just leave consumers more informed about what they are paying.¹⁷⁴

Proposals specifically addressing demand-based pricing create two possible frameworks for future laws. Approaches like North Carolina's prohibit outright ticket price increases during a purchasing session except for things like processing fees and taxes.¹⁷⁵ Another approach seen in the BOSS and SWIFT Act would still allow demand-based price increases but would require platforms to give customers “clear and conspicuous notice” that the price increased.¹⁷⁶ Because the federal approach to this point has focused largely on consumer knowledge compared to concrete prohibitions, an approach like that seen in the BOSS and SWIFT Act could appeal to this approach while still protecting consumers from being exploited by demand-based pricing practices. However, North Carolina's outright ban tracks closely with

170. *How Are Ticket Prices and Fees Determined?*, TICKETMASTER, <https://help.ticketmaster.com/hc/en-us/articles/9663528775313-how-are-ticket-prices-and-fees-determined> [https://perma.cc/DD37-MRAA] (last visited Feb. 9, 2026).

171. Mello-Klein, *supra* note 169.

172. *See supra* Part V.C.

173. *See id.*

174. Jessica Dickler, *The FTC's New Rule on Ticket Prices is a Win for Consumers, Experts Say — But Don't Expect It to Bring Costs Down*, CNBC (May 13, 2025, at 10:13 ET), <https://www.cnbc.com/2025/05/13/ftcs-new-rule-on-ticket-prices-wont-bring-costs-down-experts-say.html> [https://perma.cc/JDX4-M35J].

175. N.C. GEN. STAT. § 75-44(b)(2) (2025).

176. H.R. 3660 § 3(4), 118th Cong. (2023).

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the aggressive approaches taken by other countries to address issues in the ticketing market.¹⁷⁷

Other proposed laws could also have consumers see ticket prices go down. The Mitigating Automated Internet Networks for Event Ticketing Act (“MAIN Event Ticketing Act”),¹⁷⁸ while not addressing demand-based pricing, would at least require ticket sellers to report scalping bot use to the FTC and would establish civil penalties for failing to do so.¹⁷⁹ If passed and enforced, the MAIN Event Ticketing Act could help to prevent collusion between ticketing platforms and scalpers, conduct that LNE has been specifically accused of. Regardless, as it currently stands, consumers will likely continue seeing ticket prices increase due to demand-based pricing. Whether the federal government favors an outright prohibition on demand-based pricing or not, it must at least address the problem. Concern over the business practice has been steadily rising with each new artist announcing new tours.¹⁸⁰ To provide ticket buyers with the protections many laws claim and fail to provide, federal legislation must deliver a measurable change in how online tickets are priced and sold.

VII. CONCLUSION

The online ticket market is rapidly evolving, and the current legal landscape has been struggling to keep up. Live Nation Entertainment has been taking advantage of this legal lull in order to perpetuate the artificial inflation of ticket prices, and legal responses to this have been largely lacking. The BOTS Act claimed to bring ticket prices down for Americans. The DOJ claimed time and time again that its settlements with LNE would do the same. The FTC’s Rule on Unfair or Deceptive Fees promised Americans would save billions, and proposed federal laws sought to ensure consumers are not taken advantage of by ticket issuers. But none of these responses effectively did what they said they would.

177. *See supra* Part V.C.

178. S. 196, 119th Cong. (2025).

179. *See id.*

180. *See supra* Part IV.

While these responses have left much to be desired, the recent antitrust verdict against Live Nation Entertainment and the commitment of the state attorneys general party to the suit should serve as an example to the rest of the legal field. Legislators and litigators alike must not treat this as a one-off, but instead use the momentum from this suit to continue taking direct enforcement and legislative action against Live Nation Entertainment to ensure that ticket buyers are provided with the protections they have long been promised.