



Office of Acting Chairwoman
Rebecca Kelly Slaughter

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

May 13, 2021

The Honorable Bill Pascrell, Jr.
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Pascrell:

Thank you for your letter to the Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC” or “Commission”) in support of robust antitrust enforcement and calling for an investigation of certain practices of Live Nation Entertainment in the live event ticketing industry. I agree that vigorous enforcement is critical to ensuring competitive markets and protecting consumers, and I share your strong interest in protecting consumers who buy live event tickets. Although I cannot comment on any existing or potential non-public investigations, I assure you that the Commission’s oversight of the event ticketing industry continues. The FTC will defer to DOJ regarding your concern about the 2010 conduct consent decree entered by the U.S. District Court for the District of Columbia following DOJ’s challenge of the Live Nation Entertainment/Ticketmaster merger, a decree that was extended for an additional five and a half years over allegations that the companies had repeatedly violated its terms for many years.¹

As I discussed during my testimony at the March 18, 2021 hearing before the House Judiciary Committee, I believe that the Commission should use the full breadth of its authority to address anticompetitive conduct.² I am committed to using all of the Commission’s law enforcement tools to protect consumers in the live ticketing market, including our competition and our consumer protection authority. As you noted, the FTC held an online event ticketing workshop in 2019 which brought together stakeholders, including primary and secondary ticket sellers, ticket brokers, venues, promoters, and self-regulatory and consumer advocacy organizations, to examine a broad range of issues.³ In January, the FTC announced that it took legal action against three ticket brokers based in New York who allegedly used automated software to illegally buy up tens of thousands of tickets for popular concerts and sporting events,

¹ DOJ Press Release, *Court Enters Judgment That Significantly Modifies and Extends Consent Decree with Live Nation/Ticketmaster* (Jan. 28, 2020), <https://www.justice.gov/opa/pr/court-enters-judgment-significantly-modifies-and-extends-consent-decree-live>.

² Prepared Statement of Acting FTC Chairwoman Rebecca Kelly Slaughter, Before the U.S. House of Representatives Judiciary Committee Subcommittee on Antitrust, Commercial, and Administrative Law (Mar. 18, 2021), <https://www.ftc.gov/public-statements/2021/03/prepared-statement-federal-trade-commission-acting-chair-rebecca-kelly>.

³ FTC Press Release, *Online Event Tickets Workshop* (Jun. 11, 2019), <https://www.ftc.gov/news-events/events-calendar/2019/03/online-event-tickets-workshop>.

then subsequently made millions of dollars reselling the tickets to fans at higher prices.⁴ Under a settlement reached with the FTC, the three ticket brokers are subject to a judgment of more than \$31 million in civil penalties for violating the Better Online Ticket Sales (BOTS) Act.

Finally, I would be remiss if I did not note two acute FTC-specific challenges in carrying out the agency's mission: first, the concern that FTC funding has not kept up with the increasing demand on our competition and consumer protection work; and second, court challenges to our authority to enjoin illegal conduct and seek monetary redress under Section 13(b) of the FTC Act. My recent testimony before the House Energy and Commerce Committee explained how the latter hurdle was dramatically exacerbated on April 22 when the U.S. Supreme Court ruled that the Commission cannot disgorge ill-gotten gains or provide restitution to injured consumers under 13(b).⁵ This decision will likely impact the Commission's four active federal court cases in which it is seeking monetary remedies under 13(b) for alleged anticompetitive conduct.⁶ I look forward to working with Congress to ensure that the Commission has the resources and tools it needs to protect consumers and promote competition, including by pursuing appropriate enforcement action to address ongoing concerns in the event ticketing industry.

Thank you again for your vigilance in promoting a fully competitive and fair marketplace for live event ticketing and I am eager to work with you in this effort. If you have any questions, please feel free to have your staff call Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195.

Sincerely,



Rebecca Kelly Slaughter
Acting Chair

cc: The Honorable Merrick Garland
Attorney General
U.S. Department of Justice

⁴ FTC Press Release, *FTC Brings First-Ever Cases Under the BOTS Act* (Jan. 22, 2021), <https://www.ftc.gov/news-events/press-releases/2021/01/ftc-brings-first-ever-cases-under-bots-act>.

⁵ Prepared Statement of Acting FTC Chairwoman Rebecca Kelly Slaughter, Before the U.S. House of Representatives Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce (Apr. 27, 2021),

https://www.ftc.gov/system/files/documents/public_statements/1589456/opening_statement_april_27_house_13b_hearing_427.pdf; Prepared Statement of the Federal Trade Commission, Before the U.S. House of Representatives Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce (Apr. 27, 2021), https://www.ftc.gov/system/files/documents/public_statements/1589400/p180500house13btestimony04272021.pdf.

⁶ Am. Compl., *FTC et al. v. Vyera Pharmaceuticals et al.*, Case No. 1:20-cv-00706-DLC (S.D.N.Y.); Fed. Trade Comm'n v. *AbbVie Inc.*, 329 F. Supp. 3d 98 (E.D. Pa. 2018); *FTC v. AbbVie Inc.*, 976 F.3d 327 (3d Cir. 2020); Compl., *FTC v. Endo Pharmaceuticals Inc./Amneal Pharmaceuticals, Inc.*, Case No.: 1:21-cv-217-RCL (D.D.C.); *FTC v. Surescripts, LLC*, 424 F. Supp. 3d 92 (D.D.C. 2020).