To protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. PASCRELL introduced the following bill; which was referred to the Committee on

A BILL

To protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Better Oversight of
Stub Sales and Strengthening Well Informed and Fair
Transactions for Audiences of Concert Ticketing Act of
2023” or the “BOSS and SWIFT ACT of 2023”.

(Original Signature of Member)
SEC. 2. DEFINITIONS.

In this Act:

(1) ANCILLARY CHARGES.—The term “ancillary charges”—

(A) means any fee that must be paid in order to secure a ticket from a primary ticket seller or secondary ticket sales marketplace, including a service fee, convenience charge, delivery and logistics fee, and any other mandatory charge; and

(B) does not include taxes.

(2) BASE PRICE.—The term “base price” means the price charged for a ticket other than any ancillary charge and tax.

(3) BOX OFFICE.—The term “box office” means a physical location where tickets are offered for primary sale.

(4) BUNDLED SERIES TICKETS.—The term “bundled series tickets” means a package of tickets for multiple events that are part of the same entertainment series.

(5) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(6) DOMAIN NAME.—The term “domain name” means a globally unique, hierarchical reference to an Internet host or service, which is assigned through
centralized Internet naming authorities, and which is comprised of a series of character strings separated by periods, with the right most string specifying the top of the hierarchy.

(7) PRIMARY SALE.—The term “primary sale” means, with regards to a ticket, the initial sale of a ticket.

(8) PRIMARY TICKET SELLER.—The term “primary ticket seller” means an owner or operator of a venue or a sports team, a manager or provider of an event, or a provider of ticketing services (or an agent of such owner, operator, manager, or provider) that engages in the primary sale of tickets for an event.

(9) PURCHASER.—The term “purchaser” means any person who purchases a ticket from a primary ticket seller or a secondary ticket seller, or on a secondary ticket sales marketplace.

(10) RESALE; SECONDARY SALE.—The terms “resale” or “secondary sale” means, with regards to a ticket, any sale of a ticket that is not a primary sale.

(11) SECONDARY TICKET SALES MARKETPLACE.—The term “secondary ticket sales marketplace” means a business, including a primary ticket
seller, that operates or provides a website, software application for a mobile device, or any other digital platform, whose purpose is to resell or facilitate the resale of tickets to purchasers.

(12) **SECONDARY TICKET SELLER.**—The term “secondary ticket seller” means an individual, group of individuals, or company, including a primary ticket seller, who engages in the resale or secondary sale of tickets.

(13) **TICKET.**—The term “ticket” means a printed, electronic, or other type of evidence of the right for admission to a sporting event, theater, musical performance, or place of public amusement of any kind, including bundled series tickets.

(14) **TOTAL COST OF THE TICKET.**—The term “total cost of the ticket” means the base price of the ticket and any ancillary charge.

(15) **URL.**—The term “URL” means the uniform resource locator for an internet website.

**SEC. 3. TRANSPARENCY OF MARKETING, DISTRIBUTION, AND PRICING BY TICKET SELLERS.**

A primary ticket seller, secondary ticket seller, and secondary ticket sales marketplace shall do the following:
(1) Disclose clearly and conspicuously the total cost of the ticket, from the first time a ticket price is displayed and anytime thereafter.

(2) Provide the purchaser before purchase an option to view the base price of the ticket with any ancillary charge and tax itemized.

(3) Display the total cost of the ticket in any price quote and advertisement that includes the ticket price.

(4) Not change the total cost of the ticket during the purchase process unless there is a clear and conspicuous notice that the total cost of the ticket has changed.

(5) If a ticket is not delivered (except for a case in which there is nondelivery due to a cause beyond reasonable control of the seller, including a natural disaster, civil disturbance, or otherwise unforeseeable impediment) provide the purchaser, at the option of the purchaser, at minimum—

(A) a full refund for the total cost of the ticket and any tax; or

(B) subject to availability, a replacement ticket in a comparable or upgraded location.
(6) Disclose clearly and conspicuously whether any given ticket is being offered as a primary sale or secondary sale.

(7) Disclose clearly and conspicuously the guarantee or refund policy, including whether any ancillary charge and tax will be refunded to the purchaser, before the completion of the sale of a ticket.

(8) Prohibit the design, modification, or manipulation of a user interface with the purpose or substantial effect of obscuring, subverting, or impairing user autonomy, decision making, or choice.

(9) Not knowingly sell a ticket for the same seat to more than one person.

(10) Report to the Federal Trade Commission any actual or constructive knowledge of activity that may be in violation of the BOTS Act of 2016 (15 U.S.C. 45c; Public Law 114–274).

SEC. 4. PRIMARY TICKET SELLER REQUIREMENTS.

A primary ticket seller shall do the following:

(1) Disclose clearly and conspicuously on the website of the seller and at the box office of the venue where the event will be held, the total number and total cost of tickets that will be offered for sale to the general public by the seller not less than 7
days before the date on which tickets are made
available for primary sale.

(2) Not restrict or hinder the ability of a pur-
chaser who has purchased a ticket from a primary
ticket seller from—

(A) reselling any such ticket independently
of the primary ticket seller or any secondary
ticket sales marketplace owned or affiliated
with the primary ticket seller; and

(B) reselling such ticket on the secondary
ticket sales marketplace the purchaser chooses.

(3) Not require a minimum or maximum price
for the resale of any ticket purchased from a pri-
mary ticket seller.

(4) Not sanction or deny a purchaser admission
to an event, deny rights to bundled series tickets or
the renewal thereof, or otherwise discriminate
against a purchaser on the basis that the purchaser
resold a ticket, gifted a ticket, or purchased a resold
ticket.

SEC. 5. SECONDARY TICKET SELLERS AND SECONDARY
TICKET SALES MARKETPLACES REQUIRE-
MENTS.

A secondary ticket seller or secondary ticket sales
marketplace shall comply with the following requirements:
(1) If a secondary ticket seller does not control the ticket at the time the ticket is offered for sale—

(A) the secondary ticket seller shall provide a clear and conspicuous statement on the initial ticket listing that the secondary ticket seller does not control the ticket and cannot guarantee that the seller will be able to obtain the ticket; and

(B) the secondary ticket sales marketplace shall implement and maintain a mechanism on the platform of the marketplace to clearly and conspicuously display the statement required in subparagraph (A).

(2) A secondary ticket sales marketplace shall provide a clear and conspicuous explanation of how to obtain a refund of the total cost of the ticket and any tax if the purchaser receives a ticket that does not match the description of the ticket provided by the secondary ticket seller.

(3) A secondary ticket sales marketplace shall disclose clearly and conspicuously to a purchaser when the secondary ticket sales marketplace is also the primary ticket seller for a venue, team, or artist associated with the event.
(4) A secondary ticket sales marketplace shall disclose clearly and conspicuously upon offering a ticket for resale—

(A) the delivery method, and the delivery timing; and

(B) the precise section and row of the seat or space to which the ticket would entitle the bearer, or, if information about the precise section and row of the seat or space is not available, descriptive information about the location of the seat or space, such as a description of a section or other area within the venue where the seat or space is located.

(5) A secondary ticket sales marketplace—

(A) shall provide a clear and conspicuous statement, before a visitor creates an account with the secondary ticket sales marketplace or selects a ticket, that the marketplace is engaged in the secondary sale of tickets and is not affiliated or endorsed by a venue, team, or artist, as the case may be, unless the marketplace has the express written consent of the venue, team, or artist, as applicable; and
(B) shall not use a domain name, or any subdomain thereof, in the URL of the marketplace that contains—

(i) the name of a specific team, league, or venue where concerts, sports, or other live entertainment events are held, unless authorized by the owner of the name;

(ii) the name of the exhibition or performance or of another event described in clause (i), including the name of a person, team, performance, group, or entity scheduled to perform at any such venue or event, unless authorized by the owner of the name;

(iii) any trademark not owned by the secondary ticket sales marketplace, including any trademark owned by an authorized agent or partner of the venue or event identified in clauses (i) and (ii); or

(iv) any name substantially similar to those described in clauses (i) and (ii), including any misspelling of any name described in those clauses.
(6) Shall not permit the unauthorized secondary sale of a ticket by an individual employee of any venue, primary ticket seller, team, artist, promoter, secondary ticket sales marketplace, or box office, that is directly involved in hosting, promoting, performing in, or selling tickets if such secondary sale—

(A) is for a higher total cost than the total cost in the primary sale of the ticket; or

(B) is made to any third party and the employee has actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that the third party intends to sell the ticket for a higher total cost than the total cost in the primary sale of the ticket.

SEC. 6. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—A violation of sections 3, 4, or 5 of this Act, or any rule prescribed pursuant to this Act, is enforceable as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal
Trade Commission Act were incorporated into and made a part of this Act. Nothing in this Act shall be construed to limit the authority of the Federal Trade Commission under any other law.

(b) **State Attorneys General.**—

(1) **In general.**—Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates a rule prescribed pursuant to this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the rule;

(C) obtain civil penalties;

(D) obtain damages, restitution, or other compensation on behalf of residents of the State; and

(E) obtain such other relief as the court may consider to be appropriate.

(2) **Notice.**—The State shall serve written notice to the Commission of any civil action under
paragraph (1) at least 60 days prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide notice immediately upon instituting such civil action.

(3) INTERVENTION BY FTC.—Upon receiving the notice required by paragraph (2), the Commission may intervene in such civil action and upon intervening—

(A) be heard on all matters arising in such civil action;

(B) remove the action to the appropriate United States district court; and

(C) file petitions for appeal of a decision in such civil action.

(4) SAVINGS CLAUSE.—Nothing in this subsection shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence. Nothing in this section shall prohibit the attorney general of a State, or other authorized State officer, from proceeding in
State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(5) Venue; Service of Process; Joinder.—In a civil action brought under paragraph (1)—

(A) the venue shall be a judicial district in which the defendant or a related party is found, is an inhabitant, or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code;

(B) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(C) a person who participated with a defendant or related party in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(6) Preemptive Action by FTC.—Whenever a civil action or an administrative action has been instituted by or on behalf of the Commission for violation of any rule described under paragraph (1), no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under paragraph (1) against any de-
fendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(7) AWARD OF COSTS AND FEES.—If a State prevails in any civil action under paragraph (1), the State can recover reasonable costs and attorney fees.

(c) PRIVATE RIGHT OF ACTION.—Any person who suffers injury as a result of another person’s violation of a rule prescribed pursuant to section 3(1) or 4(2), may bring a civil action against such person in a United States district court and may recover from such person damages for such injury plus $1,000 for each requirement or prohibition set forth in such sections that such person violated with respect to a ticket sold to the person bringing such action, and reasonable attorneys’ fees and costs.

SEC. 7. NONPREEMPTION.

Nothing in this Act shall affect the authority of any State or local government to establish or continue in effect a provision of law of the State or local government relating to the regulation of the resale of tickets to events or the pricing of such tickets for resale, except to the extent that such provision is inconsistent with this Act or a regulation promulgated under this Act, and then only to the extent of the inconsistency. A provision of law of a State or local government is not inconsistent with this Act or a regulation promulgated under this Act if such provision provides
equal or greater protection to purchasers than the protection provided under this Act or such regulation.

SEC. 8. FTC STUDY OF TICKET MARKET.

(a) EFFECT OF BOTS ACT OF 2016.—Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to Congress a report on the effect of the enforcement actions by the Commission since the date of the enactment of the BOTS Act of 2016 (15 U.S.C. 45c; Public Law 114–274) on the ticket market, including the following:

1. Any enforcement action taken since such date.
3. Any recommendation to improve enforcement of the BOTS Act of 2016, including whether additional regulations may be needed to encourage reporting by primary ticket sellers, secondary ticket sellers, and secondary ticket sales marketplaces of activity that may be in violation of the BOTS Act of 2016.

(b) EFFECT OF THIS ACT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the effect of this Act on the ticket market, including the following:
(1) Any enforcement action taken since such date.

(2) How the Commission collects evidence of potential violations of this Act.

(3) Any recommendation to improve enforcement of this Act, including whether additional regulations may be needed to encourage reporting of activity that may be in violation of this Act.