

Biden administration files antitrust lawsuit against Live Nation and its subsidiary Ticketmaster

Erik Schreiber
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The US Department of Justice (DoJ) filed an antitrust lawsuit against Live Nation Entertainment and its subsidiary Ticketmaster on May 23. Attorney General Merrick Garland accuses the company of monopolizing the live entertainment industry, restricting musicians' and other performing artists' access to performing venues and inflating prices for fans.

The lawsuit includes a request for structural relief, which could include the court-ordered sale of Ticketmaster. Twenty-nine states and the District of Columbia have joined the suit.

Live Nation is an entertainment juggernaut with phenomenal revenue. Thanks to a 46 percent increase in worldwide ticket sales for the top 100 tours, the company reported \$9.17 billion in sales in 2023. About 145 million people attended Live Nation events last year: a 20 percent increase from the previous year.

Live Nation Entertainment is the result of a 2010 merger between Live Nation, a concert promoter, and Ticketmaster, a ticket sales and distribution company. Ticketmaster is the world's largest ticket seller. It distributed more than 620 million tickets through its systems in 2023, according to its most recent annual report. It sells about 70 percent of tickets for major concert venues in the US, according to a federal lawsuit that consumers filed in 2022.

As of 2023, Live Nation owned or controlled more than 265 concert venues in North America, including more than 60 of the top 100 amphitheatres in the US. The number of venues worldwide that Live Nation "owned, leased, operated, had exclusive booking rights for or had an equity interest over which we had a significant influence" increased by more than 136 percent between the end of 2014 and the end of 2023, according to a company report.

The federal lawsuit abounds with charges of anticompetitive behavior. Live Nation, according to the suit, pushes venues into long-term contracts that prevent the latter from using rival ticketing companies that may have better technology. The agreements also prevent the venues from using multiple ticketers. These years-long agreements remove Live Nation's incentive to update its systems or provide competitive pricing.

In addition, Live Nation stands accused of having bought various small and regional promoters that it had identified as competitive threats. The company allegedly threatens venues that consider using other promoters with a loss of revenue or concerts.

The government also asserts that Live Nation uses its growing control of venues to restrict artists' access to those venues unless the artists hire the company as a promoter. It is almost impossible for an artist to schedule a tour that avoids amphitheatres controlled by Live Nation, according to the Department of Justice.

This dominance gives the company leverage over major artists and emerging artists alike, and the latter are particularly vulnerable. Live Nation can direct new artists into its network of venues and leave them with little room to negotiate. For more than 10 years, Live Nation has blocked artists who use other promoters from performing at its venues, according to the DoJ.

Finally, the government accuses the company of threatening potential competitors. In 2021, Live Nation threatened financial retaliation against an unnamed company unless it prevented one of its subsidiaries from competing with Live Nation for concert promotion contracts, according to the lawsuit.

The monopolistic practices that the US government now denounces are the inevitable result of Live Nation's tremendous growth, which the same government has

permitted for years, and tendencies inherent in modern capitalism.

In 2010, the Justice Department did not block the merger of Live Nation and Ticketmaster, but merely asked Live Nation not to retaliate against concert venues for using other ticket companies. The resulting agreement between the US and the company was limited to 10 years. When the Justice Department found in 2019 that Live Nation had “repeatedly” reneged on its agreement, it merely extended the prohibition on retaliation until 2025. Absent any penalties, what is to stop the company from continuing to flout such an agreement?

The government’s leniency is by no means accidental. In 2022, Live Nation spent \$1.1 million on federal lobbying, according to *The Hill*. In 2023, this spending more than doubled to \$2.4 million. And Live Nation has not turned off the spigot. During the first quarter of 2024, it spent another \$520,000 on federal lobbying.

Music fans are literally paying the price for Live Nation’s monopolistic practices. Americans pay more for concert tickets than fans in other countries, according to the government’s lawsuit. In 2023, the average ticket price for the 100 top tours was \$122.84, according to music industry publication *Pollstar*. This price was 17 percent higher than the year before and 31 percent higher than in 2018.

Live Nation has managed to weather high-profile disasters that would have wrecked smaller companies. In 2022, fans who tried to buy tickets for Taylor Swift’s “The Eras” tour from Ticketmaster faced tremendous delays and error messages. Ticketmaster blamed the failures on unprecedented demand, but any music industry professional familiar with Swift would have predicted what was coming. Ticketmaster’s dominant position gives it little incentive to pursue software upgrades that could have avoided this collapse.

In the same year, Ticketmaster used a dynamic pricing model to sell tickets to Bruce Springsteen’s tour. Dynamic pricing continuously adjusts prices according to changes in inventory levels, supply and demand. In layman’s terms, it can amount to little more than price gouging. Fans of Springsteen were startled to see that during periods of high demand, ticket prices shot up to \$5,000 or more.

There is no doubt that Live Nation has engaged in ruthless monopolistic practices, but the congressional hearings and antitrust lawsuit that have followed these scandals will not bring the giant firm to heel, nor are they intended to. A company official pointed out last week that

there has “never been a circumstance where the DoJ allowed a merger to happen under a consent decree with behavioral remedies, which it said was an effective remedy, and then came back later and tried to say that that should be broken up.”

The trial might not begin for a year or a year and a half, and arguments will last for months. Live Nation will certainly appeal any adverse ruling, and the dispute could take years to resolve. Expecting significant consumer protection from a government that defends the interests of financial and corporate capital above all else would be an exercise in naïveté. The lawsuit will result in a settlement that allows executives and shareholders to keep raking in billions in revenue by exploiting artists and fans alike.

It seems likely that one motive for the DoJ suit, aside from divisions within the corporate elite and the brazenly bullying methods of Live Nation, is the Biden administration’s desire to paint itself in some sort of “progressive,” consumer-friendly colors, particularly among music-loving, concert-going youth. Every poll indicates the deep alienation, if not active hostility, of young people in regard to Biden over the economy, Gaza and other issues, with one recent survey indicating that only 24 percent of those 18-29 approve of the job he’s doing (NPR/PBS NewsHour/Marist).

Live Nation is only one symptom of the broader, overwhelming consolidation of the music industry, including its broadcasting, ticketing, concert promotion, artist management, venue operation and music publishing components.

Three major record labels (Universal, Sony, and Warner Music) produce two-thirds of all music released in America, according to a 2021 investigation by *Wired*. Artists on major labels released more than 90 percent of all top 10 songs between 2011 and 2021, according to the same source. This massive consolidation has sharply narrowed the range of voices in popular music and contributed to a degraded, stagnant culture. A flourishing culture in which a diverse array of artists engages in experimentation and depicts our social existence seriously is impossible under monopoly capitalism. The fight for socialism is essential for the development of a thriving, truly human culture.



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