

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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HELD AT: Council Chambers
City Hall

B E F O R E:
LEROY G. COMRIE, JR.
Chairperson

COUNCIL MEMBERS:
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James Gennaro
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CHAIRPERSON COMRIE: Good morning.

I am Leroy Comrie. I'm the Chair of the Committee on Consumer Affairs. Today, we are holding our first hearing on Intro Bill 727-A, a local law to amend the Administrative Code of the City of New York in relation to the sale of tickets to individual consumers by operators of theater, music or sporting events taking place in New York City at places of entertainment.

I'd like to begin by thanking the Department of Consumer Affairs for joining us today, as well as representatives from the ticket resale industry and consumer advocacy groups. In 2007, a law was enacted repealing all restrictions governing the price of resold tickets. Prior to the repeal, licensed ticket sellers could not increase a ticket price by more than 45% of its original value for large venues or 20% of its original value for venues seating fewer than 6,000 people. By repealing pricing restrictions, the new law, which is due to sunset next month, leaves the price ceiling on resold tickets entirely up to the market. The law also bans the resale of tickets on the street within certain distances

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2 from the venue depending on its size, but allows
3 theaters to open their own resale locations on
4 their premises.

5 The repeal was supported by many
6 within the industry, including theater owners,
7 licensed ticket resellers and the owners of
8 certain sporting venues; many of which said that
9 the repeal would ultimately benefit the consumer.
10 It was also supported by such government leaders,
11 such as the Mayor, Michael Bloomberg, then
12 Governor Eliot Spitzer, who preferred to let
13 market forces dictate the price of the ticket.
14 Not surprisingly, consumer advocacy groups
15 criticized the bill saying that it would lead to
16 higher ticket prices and decreased ticket
17 availability to a person of average income.

18 Here we are today, almost two years
19 to the day after the repeal of pricing
20 regulations. How have the consumers fared? It
21 turns out not too well. Ticket sellers have been
22 using technology that acquire large quantities of
23 tickets in a short span of time, causing entire
24 venues to sell out all their tickets in just a few
25 minutes. For those who were not lucky enough to

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2 purchase the tickets during their brief window of
3 availability, ticket resellers are the only
4 option. Unfortunately for most, ticket sellers
5 often sell the ticket at a cost several times the
6 original price, creating an insurmountable
7 obstacle for the average consumer.

8 Introductory Bill 727-A seeks to
9 address this issue by requiring that all venues
10 with a permanent seating capacity of 3,000, or
11 more, reserve at least 15% of the total number of
12 tickets made available for purchase to an event
13 for sale at their own onsite box office. This 15%
14 would not include season tickets, tickets
15 purchased as a part of a subscription package
16 and/or other tickets not available for purchase by
17 the general public. Events scheduled to take
18 place on a daily basis at the same venue over the
19 course of more than a week, such as Broadway and
20 off-Broadway theater productions, would also be
21 exempt.

22 Furthermore, each customer would be
23 limited to purchasing four tickets per event per
24 day at the onsite box office and each ticket would
25 be required to be printed with the date and time

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2 of sale. Venues subject to this legislation would
3 be required to maintain records disclosing the
4 total number of tickets for sale at the onsite box
5 office and the location of the corresponding
6 seats, which would be made available to the
7 Commissioner of the Department of Consumer
8 Affairs. Violators of this law would be subject
9 to a fine of up to \$500 per violation.

10 I'd like to point out that Intro
11 720-A is one of many possible solutions to the
12 ticket scarcity in New York City. In addition to
13 evaluating the merits of this legislation, we will
14 also like to hear what other options we should
15 pursue and have been meeting with many entities to
16 try to work on those options.

17 As the date to reinstitute New
18 York's anti-scalping legislation draws closer, I
19 look forward to discussing this timely topic and
20 working together to ensure that everyone has
21 access to entertainment at reasonable prices.
22 Again, I'd like to thank everyone for joining us
23 today. And, I will now ask Andy Eiler [phonetic]
24 from DCA to come and give his presentation on
25 behalf of the New York City Department of Consumer

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2 Affairs. Good morning, Andy.

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ANDREW EILER: Good morning, Mr. Chairman. I'm Andrew Eiler. And, I'm the Director of Legislative Affairs for the Department of Consumer Affairs. Commissioner Mintz asked me to thank you for this opportunity to comment on Introductory 727-A, a bill that would require certain places of entertainment to hold back for sale at their box offices a proportion of tickets for specially scheduled events.

This bill clearly seeks to effectuate the laudatory goal of ensuring that the general public would have an opportunity to purchase highly coveted tickets for limited engagements at face value at the box office. It requires that entertainment venues hold back a certain number of tickets from resellers who could otherwise corner the market by making bulk ticket purchases and then, charging exorbitant prices for scarce tickets to popular performances or events, like concerts, megastar performers or playoff games.

To achieve this goal, the bill would require that places of entertainment within

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2 New York City, with permanent seating capacity of
3 over 3,000 persons, set aside at least 15% of
4 tickets that are made available for purchase to
5 special events for sale to individuals at the box
6 office. It would also require that no more than
7 four tickets be sold to each individual and the
8 tickets have printed on its face the date and time
9 of sale. Intro 727-A also requires that the place
10 of entertainment maintain records of the total
11 number of seats available for sale to individual
12 consumers and the location of corresponding seats.

13 The bill would empower the
14 Department of Consumer Affairs to enforce
15 compliance with these provisions by requiring
16 places of entertainment to make their required
17 records available for inspection upon request by
18 the Commissioner and issue violations accordingly.

19 While the Department supports the
20 purpose of this bill, we do have significant
21 concerns about our ability to realistically
22 enforce the bill's mandates. One concern is that
23 the Department lacks hearing authority over these
24 violations. Far more troublesome questions
25 include the bill's requirement that 15% of tickets

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2 made available for purchase be set aside needs
3 clarification. What tickets for each performance
4 or - - is made available for purchase? Is there a
5 possibility that less than a full seating capacity
6 of the place of entertainment be made available
7 for purchase? The bill does not specify on what
8 grounds tickets could be distributed to
9 ticketholders without being counted as made
10 available for purchase. This information is
11 necessary to determine whether the place of
12 entertainment is in compliance with the 15%
13 holdback requirement. If the number of tickets
14 that could be distributed without being counted as
15 made available can vary with each performance, it
16 becomes even more difficult to determine
17 compliance.

18 The bill does not specify for how
19 long tickets reserved for individual sales would
20 have to be held back at the onsite box office
21 before they can be sold through outlets other than
22 the box office. Is one day after they go on sale
23 long enough? Should it be for at least one week?
24 Should it be until the date of the performance?

25 The recordkeeping requirements in

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2 the bill do not enable the Department to assess
3 compliance with the law. The requirement that
4 place of entertainment maintain only records of
5 the total number of tickets available for sale to
6 individual consumers and the location of
7 corresponding seats will not, upon audit, inform
8 the Department whether or not there was
9 compliance.

10 The Department admires the Chair's
11 effort to ensure that the public has the
12 opportunity to purchase tickets to special events
13 and performances at the box office at face value.
14 We also appreciate the ticket sellers' legitimate
15 interest in selling their tickets while protecting
16 consumers. We don't want to unduly burden the
17 marketplace. We remain entirely open to working
18 with the Committee to try to identify a mechanism
19 by which we might realistically be able to achieve
20 these important goals.

21 Thank you again for the opportunity
22 to comment on the bill. I'll be happy to answer
23 questions.

24 CHAIRPERSON LEROY COMRIE: Thank
25 you, Andy. So, you're saying pretty much that the

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2 Commissioner likes the idea and likes the concept,
3 understands that there has been a major problem
4 with consumers trying to obtain tickets to venues,
5 especially for certain special events that have
6 happened in New York City. You're just concerned
7 about some of the technicalities in the bill,
8 correct?

9 ANDREW EILER: Well, the
10 technicalities, yes. The nuts and bolts of how to
11 make it work. And, there are a lot of details
12 that need to be filled in before we can, you know,
13 effectively make it work.

14 CHAIRPERSON LEROY COMRIE: Okay.
15 And, you talked about the issue of what-- and let
16 the Commissioner, I heard him about the hearing
17 authority and we'll be talking about that. If we
18 could do hearing authority on just this industry,
19 would the Commissioner be willing to accept that?

20 ANDREW EILER: You mean overall
21 hearing authority?

22 CHAIRPERSON LEROY COMRIE: On just
23 this industry, yes.

24 ANDREW EILER: Oh, just this
25 industry. Without having it for this industry, I

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mean, the enforcement would be even more
problematic.

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CHAIRPERSON LEROY COMRIE: Okay.

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ANDREW EILER: But, that's the
first and simplest thing to fix. The others are a
little more troublesome.

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CHAIRPERSON LEROY COMRIE: Right.

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Well, you talked about the issue of having what
the technicality is of 15% of tickets made
available for purchase. We were talking about
making sure that the tickets that were offered to
sale or the general tickets to offer to sale to
the general public, not necessarily what they
locked in as a season ticketholder or a
subscription package or the luxury boxes, but the
tickets that were offered to the general public.

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ANDREW EILER: I understand we're
not-- the issue that's raised by that, though, is
that it's unclear what the denominator is for
figuring out that the 15% has been held back. In
other words, the recordkeeping now required would
simply say you have to tell us how many you've
held back--

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CHAIRPERSON LEROY COMRIE: Right.

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2 ANDREW EILER: -- to meet the 15%
3 requirement. But, you can't make a determination
4 that that's been done properly unless you know
5 what the denominator was that was used for
6 calculating the 15%.

7 CHAIRPERSON LEROY COMRIE: Okay.

8 ANDREW EILER: And, without knowing
9 that--

10 CHAIRPERSON LEROY COMRIE:

11 [Interposing] But, aren't most of these venues,
12 though, already have certain seating capacities
13 for whatever event they put on? And so, if you're
14 dealing with, say, just use an example, the
15 Madison Square Garden or Radio City Music Hall,
16 they have a certain-- their seats are pretty much
17 the same depending on what type of concert. And,
18 some concerts Madison Square Garden may fill up
19 their floor space on the court, but most of the
20 other concerts they are either just using the
21 seating in the area.

22 ANDREW EILER: Well, if you were
23 taking the seating-- the assembly permit seating
24 capacity as the capacity that that would be the
25 denominator. Then, it would be easy because 15%

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of that, that's how many tickets you're supposed to hold back.

CHAIRPERSON LEROY COMRIE: Right.

ANDREW EILER: However, the way it's said here is that it's tickets made available for sale, which may be fewer than the capacity of the venue. And then, the question becomes which can legitimately not be counted in tickets being made available for sale and what that number is and how it's arrived at and so forth and so on, because that becomes the number that determines what the 15% will be. And, unless you know that number--

CHAIRPERSON LEROY COMRIE: Right.

ANDREW EILER: -- you can't tell whether the 15% has been held back.

CHAIRPERSON LEROY COMRIE: Right, right. But, you understand the need that we were trying to make sure that the venues can still do the tickets like they would to Little Leagues, which we would hope they would still be offering at a significant discount, you know, that the season ticketholders, which they normally set those aside anyway, they don't offer those to the

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2 general public.

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ANDREW EILER: We're not trying to say that you shouldn't-- that they shouldn't do that or eliminate that or anything else. I'm just pointing out that unless that's somehow factored into how to compute the 15% and that's clarified and guidelines given for what is and what isn't allowable, it becomes really problematic in terms of enforcing this compliance.

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CHAIRPERSON LEROY COMRIE: Okay.

But, you think we could get to that denominator with just a little work, where there's-- Okay.

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ANDREW EILER: Right.

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CHAIRPERSON LEROY COMRIE: Good.

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And, even dealing with understanding what are made available for purchase is for the venues by a conversation with the venues over a specific period of time. Okay.

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And then, you talk about the issue of the time for individual sales and, how long those times would be. We hadn't clarified time in the specific issue. I think we just talked about making sure that the individuals could get to having an opportunity to get to the venues to

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purchase the tickets and with the qualifier of four tickets per credit card that that would-- whenever it sold out, it sold out. Probably knowing that if it was an event such as a Bruce Springsteen concert, which happened, or Hannah Montana, which happened, you know, it's going to sell out pretty quickly. So, we didn't want to put a time factor on it or hold them to a time qualifier on that particular issue.

ANDREW EILER: Well, that's probably, I mean, you know, if it's going to happen very quickly, then it'll be just taken care of the first day probably, the first two hours or whatever.

CHAIRPERSON LEROY COMRIE: Right.

ANDREW EILER: But, the issue does arise that if there's no clear guidelines in terms of what the holdback period is, it is possible to have it too short or, you know, basically that the holdback time is they just hold it back for a short period and then, you know, put it into the resale market. And, unless there's clear guidelines, it's difficult to know whether they have held it back for long enough.

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CHAIRPERSON LEROY COMRIE: Um, hm.

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We also did not address the percentage of resale

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markup. Did the Department have any idea on if

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you felt that, or if you've gotten any feedback

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from constituents or consumers regarding the price

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of resale markup recently?

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ANDREW EILER: Basically, I think

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that's kind of taken out of our hands because

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there's no cap on the resale markup. So, I think

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we have not addressed that question at all.

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CHAIRPERSON LEROY COMRIE: But, you

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have received complaints from consumers regarding

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the ticket prices or the availability to get

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tickets for different venues?

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ANDREW EILER: Actually, we

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haven't. That's not a very major number, no.

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CHAIRPERSON LEROY COMRIE: Oh, no?

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ANDREW EILER: No.

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CHAIRPERSON LEROY COMRIE: Okay.

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All right. So, you haven't received complaints

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from consumers when there have been venues that

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have happened in the City and they weren't able to

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get ticket access to?

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ANDREW EILER: No, we have not

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2 received a significant number of complaints about
3 that.

4 CHAIRPERSON LEROY COMRIE: All
5 right. And, what problems do you see regarding
6 the recordkeeping that could make it better for
7 compliance?

8 ANDREW EILER: Well, that's a
9 tricky one that we've been sort of trying to think
10 about. And, there's a lot. That's one of the
11 nuts and bolts questions that we'd really have to
12 go over and see how it works because effectively
13 it has to be, you know, enforcement would require
14 considerable recordkeeping. But, we have to fine
15 tune that quite a bit. And, I don't have any
16 suggestions right off the bat in terms of what
17 would make that work.

18 CHAIRPERSON LEROY COMRIE: Right,
19 right. But, clearly, you see that as a
20 possibility for intervention and-- or, not a
21 prospect for intervention, but possibility that
22 the City could embrace if there was a clear path
23 to creating some ability to make a record on it.

24 ANDREW EILER: Well, right. So,
25 that's something that we'd have to explore to see

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2 whether we can adequately identify what kind of
3 records would make it possible to really ensure or
4 establish whether or not everything has been done
5 appropriately.

6 CHAIRPERSON LEROY COMRIE: Okay.

7 And, if there continues to be no statewide
8 regulation regarding ticket sales, could you see
9 the City doing its own anti-ticket resale law?
10 The sunset is supposed to end next month or later
11 this month.

12 ANDREW EILER: I don't want to
13 think about that.

14 CHAIRPERSON LEROY COMRIE: Okay. I
15 understand. I hear you. All right. Well, that
16 clearly says that you're willing to take it on one
17 way or the other.

18 ANDREW EILER: No. I wouldn't
19 quite go that way. But, if it sunset, it sunsets.
20 But, the results are just something I don't want
21 to think about--

22 CHAIRPERSON LEROY COMRIE: Right.

23 ANDREW EILER: -- until it happens.

24 CHAIRPERSON LEROY COMRIE: Okay.

25 We've been joined by Council Member Oliver Koppell

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2 from the Bronx. So, you're saying that the
3 consumers haven't reached out to you. But,
4 there've been, as you know, from the articles in
5 the papers, a lot of hue and cry about the ability
6 of individuals to gain access to venues,
7 especially when there's a major concert or a major
8 event that people want to get to and they find
9 that they're blocked. They can't get an ability
10 to get anywhere near purchasing a ticket because
11 of the automatic purchase bots that they've come
12 up with in the industry. So, clearly there's been
13 a general hue and cry. I guess they just haven't
14 felt that since the Department of the Consumer
15 Affairs doesn't have a direct role in it, that's
16 why they're not calling.

17 ANDREW EILER: I'm sure that that's
18 exactly why. I mean, that's not the first thing
19 people think about that they're going to be able
20 to get tickets by calling the Department.

21 CHAIRPERSON LEROY COMRIE: Right.

22 ANDREW EILER: So, essentially,
23 that's not their, you know, that's not where
24 they're going to go.

25 CHAIRPERSON LEROY COMRIE: Yeah.

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2 ANDREW EILER: That doesn't mean
3 they're satisfied. But, it's we're not going to
4 be the first place--

5 CHAIRPERSON LEROY COMRIE:
6 [Interposing] First person--

7 ANDREW EILER: -- they're going to
8 call.

9 CHAIRPERSON LEROY COMRIE: -- to
10 reach out to, right.

11 ANDREW EILER: Right.

12 CHAIRPERSON LEROY COMRIE: And,
13 clearly, there has been many efforts on the part
14 of consumers themselves and actually individuals
15 that have been affected by it, ala Bruce
16 Springsteen. They try to create their own rules
17 and regulations to try to deal with this or
18 opportunity to make-- or try to create an
19 opportunity for individuals to buy tickets to
20 their events. Okay. Councilman Koppell, do you
21 have any questions for DCA regarding this issue?

22 COUNCIL MEMBER KOPPELL: I'm sorry
23 that I was late, Mr. Chairman. So, I don't know,
24 did--

25 CHAIRPERSON LEROY COMRIE: It's all

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2 right.

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COUNCIL MEMBER KOPPELL: -- the witness discuss efforts in, apparent efforts in, Albany to deal with this issue in a slightly different way?

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CHAIRPERSON LEROY COMRIE: No, we hadn't talked about the Albany efforts as of yet.

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COUNCIL MEMBER KOPPELL: Okay. Well, maybe we'll talk about it later. I don't know whether-- maybe the witness would answer and say whether he's aware of efforts in Albany to deal with this issue.

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ANDREW EILER: I think yes, there is some legislation. And, of course, the sunset bill is pending right now in terms of extending the sunset for the ticket law that's now in existence so that it would sunset in June. So, there's legislation to--

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COUNCIL MEMBER KOPPELL: [Interposing] And, what sunsets?

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ANDREW EILER: Well, the current law that repeals the limitation on resale price.

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COUNCIL MEMBER KOPPELL: Yes.

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ANDREW EILER: That law sunsets at

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2 the end of June.

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COUNCIL MEMBER KOPPELL: So then,
when that sunsets, we go back to limiting resale?

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ANDREW EILER: Well, let me go
back. This becomes very tricky because we have a
double sunset at work here. So, I'm not exactly
sure which law will come into effect once this one
sunsets. But, yes, the cap on selling or resale
price would, in some form, be put back into
effect.

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COUNCIL MEMBER KOPPELL: Oh, it's
likely that Albany will deal with this issue at
least in some respects before the end of the
current session.

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ANDREW EILER: That's the
expectation.

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COUNCIL MEMBER KOPPELL: So, maybe,
Mr. Chairman, we should wait and see what they do.
I also understand that there's some pending
legislation that would-- I understand that some of
the ticket sellers would like to prohibit the
brokers from buying huge blocks of tickets. And,
that currently there is some software available
that allows them to sort of circumvent the

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2 restrictions that the venues themselves have
3 placed or that the people who sell the tickets.
4 And, that there's legislation in Albany to prevent
5 that.

6 CHAIRPERSON LEROY COMRIE: I was
7 hoping to hear from people in the industry today--

8 COUNCIL MEMBER KOPPELL: Okay.

9 CHAIRPERSON LEROY COMRIE: -- about
10 those issues. But, no one has signed up to
11 testify so far. You can still sign up and testify
12 at this point. Oh, he's testifying on behalf of--
13 no one is signed up to testify at this point,
14 other than one person. You didn't sign up. Okay.
15 Well, we're still confused on whether one person
16 is testifying or not. They didn't fill out a
17 card. And, we're going to check that.

18 COUNCIL MEMBER KOPPELL: Chairman,
19 I'll wait to see who testifies then.

20 CHAIRPERSON LEROY COMRIE: All
21 right.

22 COUNCIL MEMBER KOPPELL: Perhaps
23 they'll make a suggestion to you.

24 CHAIRPERSON LEROY COMRIE: There is
25 two different pieces of legislation in the State

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2 that are looking to address the issue. Craig
3 Johnson on the Senate side and I believe
4 Assemblyman Espaillat on the Assembly side have
5 both put in legislation to deal with the-- look at
6 the issue and look at the whole problem regarding
7 the ticket resale industry because of the
8 complaints that they've received from individuals
9 regarding their inability to get anywhere near a
10 ticket without having to go through Stubhub or
11 some independent reseller or even the-- and, the
12 main problem that we received, especially this
13 year, was that a lot of people are upset that they
14 had to go back to even the owners at the stadiums
15 for resale prices that were way above the price of
16 the original ticket. So, that's one of the
17 reasons why we wanted to-- one of the main reasons
18 why we wanted to have the hearing because they
19 were being redirected to the venues own resale
20 vendors, where tickets went for several times the
21 original price.

22 Is there anything else that you
23 wanted to share with us at this particular time?

24 ANDREW EILER: No, I think that
25 pretty much covers it.

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CHAIRPERSON LEROY COMRIE: Okay.

Well, I want to thank you for coming. Do you know if your Commissioner has talked to the Statewide Commissioner regarding this particular item?

ANDREW EILER: No, I'm not. I'm not aware.

CHAIRPERSON LEROY COMRIE: Okay.

Well, I need to do that outreach directly. And, there was one other... And, are there any other entities that do resale of their own product that they distribute within their own entity that's licensed under the Department of Consumer Affairs? Any other entity that you licensed that allow direct resales of the product that they manufacture or distribute?

ANDREW EILER: No, none of the licensees that we have are in this area. I mean, the ticket broker license-- the ticket licensing was taken over by the State. That was the one thing that we used to do--

CHAIRPERSON LEROY COMRIE: Right.

ANDREW EILER: -- when the current law. But, we don't have anything else that involves this kind of resale issue.

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CHAIRPERSON LEROY COMRIE: Okay.

All right. Thank you. Well, thank you for coming.

ANDREW EILER: Thank you.

CHAIRPERSON LEROY COMRIE: Next, we have Joseph Freeman representing Ticketmaster and Donald Vaccaro representing TicketNetwork.

[Pause] Okay. Whoever would like to go first. You got to turn-- make sure the red light is on.

JOSEPH FREEMAN: Joseph Freeman, Senior Vice President with Ticketmaster. Mr. Chair, Honorable Councilmen, thank you very much for the opportunity to testify this morning.

We share, Mr. Chair, your proposal's general goal of ensuring the fair and equitable distribution of tickets. We respectfully submit, however, that while well intentioned, it would not have the effects I think you are striving to accomplish. It's important to point out that the public has embraced the internet as the most convenient way to purchase tickets. We find that over 75% of our ticket sales in North America are done across the internet. We also have a robust network of retail

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2 outlets in grocery stores and otherwise where
3 people can buy tickets at their convenience.

4 But, by and large, the public has
5 spoken. They don't want to be waiting in long
6 lines on cold mornings outside of a box office for
7 blocks on end. They want to buy tickets from the
8 comfort of their home on a Saturday morning while
9 wearing their bathrobe. But, perhaps more
10 importantly, we view the prospect of this proposal
11 to mandatorily put 15% of the tickets at the box
12 office not only as a significant logistical and
13 security challenge for our venue clients, but more
14 importantly, it may have the exact opposite
15 consequences as that intended by the measure.
16 Specifically, when tickets go on sale for high
17 demand shows, as we all remember from the past,
18 there were very long lines.

19 And, the people most motivated to
20 purchase tickets, when tickets are not efficiently
21 priced up front, meaning when the face price of a
22 ticket probably does not reflect its actual value,
23 are going to be the people interested in reselling
24 the ticket. I don't criticize those people, you
25 know, primarily professional resellers for doing

1
2 so. It's a legitimate industry under the laws of
3 this State. And, when done properly, delivers a
4 very significant consumer service. But, by and
5 large, those most motivated to go down to the box
6 office and attempt to buy tickets are going to be
7 those also interested in reselling them.

8 At Ticketmaster, we have invested
9 significant resources into upholding and
10 maintaining the integrity of the initial on-sale,
11 so, that the public can purchase tickets in the
12 most fair and equitable way possible. We have all
13 kinds of cutting edge technologies involved in
14 distinguishing between computers and human
15 purchasers. We continue to invest in those
16 technologies. We monitor the website regularly.
17 When we find suspect internet protocol addresses
18 hitting our website with undue frequency, we will
19 go out and cancel those. We cooperate with law
20 enforcement when we see unlawful activity. And,
21 we can identify it. We, ourselves, have gone to
22 Court and taken out of business through means of a
23 Federal Court permanent injunction a leading
24 purveyor of bots technology.

25 We share your goal, Honorable

1
2 Chairman. But, we do respectfully submit that
3 putting 15% at the box office may, in fact, be
4 counterproductive.

5 On top of that, we work very
6 closely with our event provider clients because
7 the tickets being sold up front are not ours.
8 They belong to the teams, the venues, the
9 promoters, the actual event provider. And, they
10 dictate to us what a ticket limit cap should be on
11 a given event. We enforce that. We implement it.
12 And, we do everything feasible to make sure that
13 people are not circumventing that limit.

14 Most importantly, though, I want to
15 point out how rapidly transforming this industry
16 is. Last year, the rock group AC/DC did a
17 nationwide tour; two to 3,000 of the best tickets
18 in the house were paperless, meaning the credit
19 card used to purchase the ticket, in effect,
20 became the ticket. You didn't need a paper
21 ticket. You came to the venue the night of the
22 show. You swiped your credit card. A little
23 receipt was printed out, almost like an e-ticket
24 for airline travel, and in you went. Tom Waits
25 did a tour last year. Smaller and medium-sized

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2 theaters, 100% paperless. We think that is the
3 future of this industry, both in terms of consumer
4 convenience, security and, above all, making sure
5 fans have the best access possible to tickets.

6 Thank you very much.

7 DONALD VACCARO: Hi, good morning,
8 Council Members. My name's Don Vaccaro. I'm the
9 CEO of TicketNetwork, a Connecticut-based software
10 company and marketer of tickets. I'm honored that
11 you asked me to speak here today.

12 I started selling tickets in New
13 York City since 1979. Since then, there have been
14 many changes in the marketplace, but nothing has
15 been more dramatic as the last five years since
16 the worldwide web has come about. We've gained a
17 tremendous amount of transparency. And, the
18 economic principles are starting to kick in now.

19 Nothing can demonstrate those more
20 than the Yankees tickets prices on the secondary
21 market that are selling greatly below face value
22 this year. The actions of the secondary market
23 show that the Yankees price their tickets way over
24 equilibrium price. And, it's caused the Yankees
25 to reduce their prices for the season and most

1
2 likely for next year. One thing to keep in mind
3 is Forester Research released a report two years
4 ago that said 40% of the tickets that are sold on
5 the secondary market are sold for less than face
6 value. So, the secondary market does provide
7 numerous value priced tickets to consumers.

8 Broadway producers have reached out
9 directly to our company in the secondary market to
10 help them promote and sell events, 'cause we can
11 offer services unique to them that they can't get
12 from the primary market and have offered us shares
13 to invest in some of their shows.

14 Even though we've seen Broadway
15 adapt to the secondary market and sports adapt to
16 the secondary market, we still haven't seen it as
17 much with concerts. Probably the biggest reason
18 why there's a problem with concerts is lack of
19 transparency, which is something that I think that
20 this meeting has a lot about, exactly how many
21 tickets are sold to the public. To give you the
22 best example that I could, about one month ago,
23 the United States Judiciary Committee had a public
24 hearing where the CEO, Irving Azoff, of
25 Ticketmaster was there. Everyone was sworn under

1
2 oath. And, after questioning, he did admit that
3 approximately 20% of the tickets being the best
4 tickets in the house were hoarded and never put on
5 sale. And, that they were kept by companies like
6 his, a management company, to resell and to keep.
7 And, they, in fact, created the exact shortage
8 that was on the secondary market by holding the
9 best seats for the best shows back. So, he
10 admitted it was a problem in the industry.

11 There's also a few other problems
12 that are unique to concerts. One is there are
13 discriminatory contracts that venues have signed
14 that diminish the rights of concert artists to
15 sell their tickets as they choose. It's something
16 that Bruce Springsteen brought up. While you
17 might have a venue that he played in New Jersey,
18 might give unlimited access for a sports team to
19 sell tickets however they want, they restrict the
20 concert artist from selling tickets anyway that
21 they want and using a different vendor to sell it.

22 I do compliment you on the
23 provision to sell tickets at the box office. I
24 think it's very important that when venues,
25 arenas, market tickets and they say tickets are

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2 available at a certain price, that tickets are
3 available at the box office for consumers to buy
4 at the price without any services charges, which
5 through the primary sellers, service charges could
6 be as high as 40, 50, 60%, depending on the actual
7 concert and the price of the ticket. So, it would
8 be in primary ticketers' best interest not to sell
9 tickets at the box office because they make a lot
10 more money on those service charge.

11 However, I think a lot of these
12 issues are going to be working out naturally over
13 the next two years. I know Albany's looking into
14 them. I know the Department of Justice is looking
15 into them on a national level. I know Senator
16 Schumer is looking to find something that acts on
17 a national level. The one thing that I think is
18 important is that the economic principles will
19 come through and we'll get an equilibrium price
20 and finally concert artists will have the freedom
21 that they've been asking for since even before
22 Pearl Jam to distribute the tickets anywhere they
23 want and to whoever they want without cumbersome
24 primary contracts, specifically discriminating
25 against a concert artist, which is definitely a

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real problem.

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One thing that I would hate to see happen, though, for the New York City market, is for New York to put some onerous provisions on selling their tickets and to make promoters less likely to promote shows in New York because it's another hurdle that they have to walk through. I think that what's going to happen on the State level would put New York in a fair playing ground. And, what we don't need in this industry right now is some sets of laws that differentiate so much between cities and states on what the rules are to sell tickets.

So, I would respectfully hope that we see what happens in Albany first with the sunset provision. I know they're asking a lot of the same questions that you are. I know transparency is a huge issue. You know, some of the solutions that we put in for our TicketNetwork proposals are in the packages of what we want. We want the discrimination to stop against concert artists. We want transparency that venues and arenas, which quite frequently happens in the sporting world that they announce how many tickets

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2 go on sale. We want that transparency to be
3 broadcast by venues and arenas so consumers know
4 that there might be a show in New York where venue
5 seats 18,000, but they're only selling four or
6 5,000 seats to the public. Just make that
7 transparency there and the consumers will know.
8 And, what'll happen is the marketplace will start
9 saying to that artist, hey, what are you doing
10 with all these other seats. It happened with
11 Hannah Montana when she was going all over the
12 country after it was found it that there were
13 thousands of tickets for every show that were held
14 back. They were scalped on. Some of them were
15 scalped on Ticketmaster's Ticket Exchange. And,
16 those seats never made it--

17 JOSEPH FREEMAN: False statement.

18 DONALD VACCARO: -- to the public.
19 Never made it to the public.

20 So, you know, there's a lot of
21 reasons, you know, there's a lot of things that we
22 can do legislatively to solve these issues and I
23 think it's happening right now. So, again, my
24 recommendation is just to wait, bring up these
25 issues with the legislator in Albany and probably

1
2 approach this in a different way that would get
3 you the same result. Thank you.

4 CHAIRPERSON LEROY COMRIE: Thank
5 you. We've been joined by Council Member Jim
6 Gennaro. Well, first off, I just want to advise
7 you, we did not include Broadway regular sales in
8 this. We also did not include the sales for long
9 term shows. We were really trying to focus, in
10 this legislation, to deal with those unique
11 concerts and not the long term ticket sales for
12 even baseball.

13 But, it's become a problem
14 especially, I mean, you brought up the Yankees and
15 the issue of a tipping point with equilibrium, you
16 know. Their whole issue with reselling is a
17 problem as well. They set up a direct resale
18 market within their own entity and a lot of
19 consumers are upset with how they've set that up,
20 as well and not even to deal with the customer
21 service issue. That's a whole 'nother issue.

22 As you know, that happened this
23 week with just the issue of what the percentage of
24 the tickets are that the actual venue is selling
25 for an event. The transparency I think is real.

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And, when you talked about, as in Hannah Montana, when they were only keeping a minimum of tickets out on the open market and, what they were doing with the majority of their tickets, I think that's a real issue for consumers.

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Just to the gentleman from Ticketmaster, you talked about technology and you talked about improving the technology to get rid of the auto bot software that's dominating the market now. Have you come out with some proven technology that you can talk about at this time that's eliminated that unfair advantage to people?

14

JOSEPH FREEMAN: Well, we use world-class technology developed by the computer science professors at Carnegie Mellon University, called the Re-capshot [phonetic]. It's a second generation capshot [phonetic] technology prevalent on the internet seeking to distinguish between computers and human users. There's a lot of internal work going on. It is not something I'm prepared to discuss publicly because, quite frankly--

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CHAIRPERSON LEROY COMRIE:

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[Interposing] Is it operational?

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2 JOSEPH FREEMAN: There's some
3 that's operational and there's more that's coming.
4 But, most importantly, as we begin to roll out the
5 concept of paperless tickets, and I think you're
6 going to see later this year some major household
7 name concert acts touring across North America
8 with 100% paperless ticket concerts. And, when
9 they do that, they will probably also offer a
10 resale component capped at face price. The goal
11 being ensure that for these very high demand
12 shows, which, again, suffer from a significant
13 imbalance between supply and demand. It's as
14 simple as that. And, Mr. Vaccaro has built a very
15 successful business around, you know, arbitraging,
16 if you will, that supply and demand imbalance.

17 The rubber will hit the road when
18 the artist and the event provider have controlled
19 their tickets and are able to dictate the pricing
20 and whether, in fact, they're going to allow above
21 face resale. Technology is going to solve this
22 problem, sir.

23 CHAIRPERSON LEROY COMRIE: Okay.
24 But, don't you think that there still should be an
25 opportunity, I mean, not for-- and, when we, I

1
2 just want to be clear, when we're talking about
3 having tickets at the box office, we were never
4 talking about creating lines. I mean, you know,
5 the box office could sell over the internet also.
6 But, it's through the box office, as opposed to
7 going through Ticketron one 800 number, you know,
8 if a person gives a personal credit card with the
9 maximum of four tickets, that can be done online
10 or over the phone also. We never, I just want to
11 be clear, we never talked about the issues of
12 having people wait on long lines for tickets just
13 to get tickets at the box office. The box office
14 could also do online or phone sales.

15 JOSEPH FREEMAN: Well, with all due
16 respect, Ticketron has been out of business for
17 about 18 years. The box office--

18 CHAIRPERSON LEROY COMRIE: Well, I
19 meant--

20 JOSEPH FREEMAN: The box office
21 technologies are operated by an integrated
22 computer system, whether it's Ticketmaster's,
23 whether--

24 CHAIRPERSON LEROY COMRIE: Right.

25 JOSEPH FREEMAN: --it's Tickets.com

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2 or whether it's any of the other major ticketing
3 service providers out there. The whole benefit to
4 the venue, the whole benefit to the promoter is to
5 have its inventory on a single integrated system.
6 And, they would tell you that. And, I believe in
7 our meetings with you, sir, that's been
8 communicated.

9 CHAIRPERSON LEROY COMRIE: But, the
10 problem with the single integrated system is the
11 resale and the ability of the individuals to get
12 the tickets at the front price and not the resale
13 price.

14 JOSEPH FREEMAN: There's no reason
15 the same dynamic would not be happening, if not
16 even more so because the security might even be
17 less cutting edge if there were a separate box
18 office system. I respectfully submit, sir, we're
19 talking about two very distinct issues.

20 CHAIRPERSON LEROY COMRIE: And,
21 your issue is making sure that the venues control
22 the tickets directly.

23 JOSEPH FREEMAN: Making sure that
24 fans have the best possible access to getting
25 tickets at the time of the initial sale at the

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face price offered for the ticket, correct.

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CHAIRPERSON LEROY COMRIE: Okay.

4

And, but, you can't talk about what specific

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technology has come out.

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JOSEPH FREEMAN: I am not

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authorized to discuss our confidential and

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proprietary trade secrets in terms of how the

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internal workings of the system operate. I can

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tell you there's absolute world-class technology

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being implemented. It is also, however, cat and

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mouse game, given how extensive the arbitrage

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opportunity is when there's a discrepancy between

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the initial face price and perceived demand leads

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to a higher actual market value. There's a huge

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amount of volume. And, when we block people's

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internet protocol addresses, we'll often see the

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same characters coming back through another

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channel.

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CHAIRPERSON LEROY COMRIE: Okay.

21

All right. And, you talked about earlier the need

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to do things legislatively on a State level. Have

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you been talking to the State about what those

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legislative suggestions are?

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JOSEPH FREEMAN: We're engaged in

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Albany. We're engaged with Senator Schumer's office. There's a lot of attention being given to these issues.

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CHAIRPERSON LEROY COMRIE: Can you talk about what happened with the settlement with the New Jersey Attorney General?

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JOSEPH FREEMAN: I can. What would you like to know, sir?

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CHAIRPERSON LEROY COMRIE: Just the background and details of that settlement.

11

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JOSEPH FREEMAN: Of the settlement? The settlement document itself is public. We elected to enter into a settlement, quite frankly, to put things behind us. There's absolutely no finding of liability. Moreover, there was no finding of any diversion of tickets because the Attorney General, as she should have and did, did her job, thoroughly investigated the situation, saw exactly where each and every ticket went from and went to.

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CHAIRPERSON LEROY COMRIE: Um, hm.

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JOSEPH FREEMAN: And, you know, a settlement was reached. Under the terms of that settlement agreement, it was pretty much to cover

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the cost of their internal investigation.

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CHAIRPERSON LEROY COMRIE: Okay.

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So, you're saying that what happened with the

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concerts was that all of the tickets that were

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resold were resold within proper guidelines?

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JOSEPH FREEMAN: There's a lot. I

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can go over that day, but absolutely. Aside from,

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you know, aside from some issues that came up

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technologically and some bad public

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misunderstandings about what was happening at the

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time, for which we were partially to blame. We

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definitely did not explain ourselves well enough.

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But, yeah, there was absolutely no inappropriate

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activity on Ticketmaster's part.

16

CHAIRPERSON LEROY COMRIE: Okay.

17

So, why was there-- well, can you explain to me

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why there was such a feeling of consumer lockout

19

regarding those concerts that happened?

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JOSEPH FREEMAN: Very simple

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reason, sir. They only make one first row.

22

Mr. Springsteen could have probably played five

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times as many shows in his home state--

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CHAIRPERSON LEROY COMRIE: Right.

25

JOSEPH FREEMAN: --and, not met

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2 consumer demand.

3 CHAIRPERSON LEROY COMRIE: Okay.

4 JOSEPH FREEMAN: You know, a good
5 example that I may have discussed with your office
6 previously is when Garth Brooks had not toured in
7 ten or 12 years and he was going to play a brand
8 new building in Kansas City in late 2007, the
9 artist representatives instructed us to keep
10 putting shows on sale until consumer demand was
11 met. And, we sold out nine Garth Brooks shows for
12 an 18,000 seat arena in less than two hours.
13 There was very little resale market because, quite
14 frankly, supply was created to meet demand. Now,
15 that was very unique circumstance. But, what
16 underlies all this and what underlies, you know,
17 the wonderful business Mr. Vaccaro has built up is
18 simply the discrepancy between supply and demand
19 when ticket inventory is scarce.

20 CHAIRPERSON LEROY COMRIE: But,
21 when you determine a ticket price for an event--

22 JOSEPH FREEMAN: [Interposing] Let
23 me interrupt you, sir. We do not determine the
24 ticket price for--

25 CHAIRPERSON LEROY COMRIE: No, I

1

2 mean--

3 JOSEPH FREEMAN: -- [crosstalk]

4 CHAIRPERSON LEROY COMRIE: -- when
5 the ticket price is determined for an event, I
6 know it's not done through Ticketmaster, you're
7 just moving the tickets as quickly as possible for
8 the event. So, I was actually talking to the
9 gentleman from TicketNetwork, 'cause you, as was
10 said, you try to determine the prices for the
11 event to make sure that the price point for the
12 event makes sense.

13 DONALD VACCARO: No, we don't; not
14 as a general rule. Most of the stuff that we do
15 is we allow ticket brokers, consumers, venues to
16 list tickets on our exchange at any price that
17 they want. And, we create a reverse auction where
18 that they constantly lower their prices until the
19 tickets sell.

20 CHAIRPERSON LEROY COMRIE: Okay.

21 DONALD VACCARO: So, that's
22 basically what happens on our exchange. But,
23 whoever buys the tickets and whoever chooses to
24 resell them sets the price that they want for the
25 tickets. Then, we add a service charge, which is

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usually about 15% on top of that transaction.

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CHAIRPERSON LEROY COMRIE: You're an online auction house to a degree.

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DONALD VACCARO: Except for we start out at a fixed price. And, what happens is the brokers use almost the Wall Street principle of marking the tickets to market. And, if the market goes up, they make more. If the market goes down, they make less. So, it's whatever the market is. Right now, we're probably seeing, in a lot of sports teams, we're seeing the ticket prices go way below face value. And, we're going to see a lot of probably problems, you know, with leagues over the next year or so with their season ticket base dwindling.

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CHAIRPERSON LEROY COMRIE: But, that's due to the economy. That's not due to the desire of people to attend games. That's due to the fact that people don't have the money to sit in the luxury seats.

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DONALD VACCARO: I absolutely agree. And, I think that a lot of professional sports teams have really out-priced their tickets for the marketplace.

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CHAIRPERSON LEROY COMRIE: Right,
right.

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DONALD VACCARO: They've lowered
the capacity on their arenas to--

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CHAIRPERSON LEROY COMRIE: Right.

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DONALD VACCARO: -- extract more.

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So, yeah, I think they, you know, played a game
and they played it the wrong way.

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10

CHAIRPERSON LEROY COMRIE: Right.

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DONALD VACCARO: And, it's going to

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end up hurting them. It ends up making them look
really bad--

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14

CHAIRPERSON LEROY COMRIE: Right.

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DONALD VACCARO: -- that they

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priced the tickets that high. And, I think, you
know, again, over the next year, I know already

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18

with the Yankees, you know, we're seeing a lot of

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issues go up and there's a lot of Yankee fans who

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are just really ticked off and even at lower

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prices, you can see the consumer backlash as

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you're not seeing a full stadium there, which you

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really should be seeing.

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CHAIRPERSON LEROY COMRIE: So, and,

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do you advise the venues at either entity on what

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2 the ticket prices should be for an event,
3 especially if it's an event that would generate a
4 lot of consumer interest? Or, do they reach out
5 to you at all for price point suggestions? Or, do
6 you have to go back to them with the price point
7 suggestions?

8 DONALD VACCARO: No, what usually
9 happens after the first person lists, then all of
10 a sudden everybody else lists and they mark
11 everything off that first price that's marked.
12 So, it just happens really quickly once the first
13 transaction happens or something like that, once
14 the first person put in prices. And, after the
15 on-sale, the prices fluctuate greatly and they go
16 up or down depending on supply and demand.

17 CHAIRPERSON LEROY COMRIE: Okay.
18 And, you talked about the issue of the cumbersome
19 primary contracts. But, you don't get to
20 negotiate those contracts. They're something that
21 we have to work with the venues, with the
22 individual artists that are doing the event,
23 correct?

24 DONALD VACCARO: I think that if
25 you ask musical artists would they like the

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2 freedom in their contracts to sell tickets
3 anywhere they wanted, instead of through the
4 primary seller, you'd see a lot of them want to do
5 that. You've seen fan clubs do that. Artists
6 have their own fan clubs to distribute tickets
7 directly for their fans. Those efforts have been
8 thwarted by the large primary ticket agencies that
9 they don't want those tickets distributed that
10 way, even though a band, who has a fan base, they
11 know who their fans are. They want to distribute
12 the tickets directly there. But, the large
13 primary vendors don't want to do that.

14 And, I've seen a contract with
15 absolutely discriminatory language against concert
16 artists, which I'd be glad to get you a copy of if
17 there's any disagreement that they have such
18 language in their contracts. So, you know, that
19 really discriminate against concert artists and
20 don't given them near the rights that sports
21 artists get, that family shows get. And, it's
22 just basically over the last 50 years, starting
23 with the record industry, everybody wanted to, for
24 lack of a better term, steal money from the artist
25 in some way. The record companies did it for

1
2 years. All right. Now, you're seeing it with the
3 concert business. Okay. That's why when an
4 artist goes to, and does a show and a concert,
5 sometimes 100% of the price that they sell, they
6 get, because years ago, they used to deal with
7 promoters who had questionable accounting ethics.
8 All right. And now, we're dealing with primary
9 ticketing companies that really restrict those
10 artists' ability to sell tickets on any channels
11 that they want.

12 JOSEPH FREEMAN: Sir, I'm not even
13 going to begin to address the gross
14 mischaracterizations that you just heard. I
15 simply want to say the--

16 CHAIRPERSON LEROY COMRIE:

17 [Interposing] I'm sorry, what?

18 JOSEPH FREEMAN: I'm not even going
19 to begin to address the gross mischaracterizations
20 that you just heard. I'm simply going to say the
21 following. The rubber hits the road when the
22 question is asked who's doing what to ensure fans
23 get full and fair access to tickets at the time of
24 the initial sale at the price set initially by the
25 event provider. Not by Mr. Vaccaro, not by

1
2 Ticketmaster. We are fighting aggressively to
3 keep automation out. We are fighting aggressively
4 to get tickets directly into fans hands. And, I
5 respectfully request that you not be distracted
6 from what you are legitimately trying to pursue by
7 the many red herrings that have just been thrown
8 out there.

9 CHAIRPERSON LEROY COMRIE: Okay.

10 DONALD VACCARO: Excuse me, I'd
11 just like to address that. I guess the easiest
12 way is I'm saying that the contracts distribute
13 against concert artists. Are you denying that?

14 CHAIRPERSON LEROY COMRIE: Okay.

15 We're going to move from that to-- we're not going
16 to get into a back and forth on that.

17 DONALD VACCARO: Okay.

18 CHAIRPERSON LEROY COMRIE: I'm just
19 trying to make sure that a individual that wants
20 to get a ticket to see a concert or a show that's
21 a special show gets an equal and fair opportunity
22 to see that. And, they can get online at 12
23 o'clock and be assured that they have a relatively
24 equal opportunity to get into the system to buy a
25 ticket. That's our concern.

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2 JOSEPH FREEMAN: Well--

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CHAIRPERSON LEROY COMRIE: You

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know, our concern is that if there's a concert at

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Radio City for, I forget now, I'm dating myself,

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let's say that Harry Potter, just to use, there's

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a Harry Potter show or I forget what the new kids'

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thing is now. I'm going back-- Jonas Brothers or,

9

you know, whatever it is now that, you know,

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parents have an equal shot at getting a ticket.

11

I'm not against e-tickets. I just booked a ticket

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to go see my mom later this month for her 90th

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birthday. I did it online, you know. But, I'm

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concerned about the people not getting an

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opportunity. And, I wanted to talk about the e-

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tickets a little bit more. But, I know that

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Council Member Koppell had a question. But, just

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one question. Can't you do, even with paperless

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tickets, a limited amount, 'cause what if one

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person say if I get on the line and I want to buy

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100 e-tickets, aren't I a suspect?

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JOSEPH FREEMAN: Well, we enforce

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the ticket limits that the event provider sets.

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And, for almost any event with any meaningful

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level of demand, there's a four and six--

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CHAIRPERSON LEROY COMRIE:

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[Interposing] And, what's the normal limit that--

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JOSEPH FREEMAN: It depends on what

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the promoter or the venue request. But, it's

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typically four, six or eight per consumer. And,

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we go back and enforce those limits, you know, at

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our client's instruction.

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I would also add that Senator

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Schumer has introduced, or talked about

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introducing, some very interesting legislation in

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Washington mandating a 48-hour window between

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which tickets initially go for sale before the

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time any professional reseller can purchase those

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tickets. There's some obvious and challenging

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enforcement aspects to that. And, it's an

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interesting issue because I think a lot of the

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brokers, including Mr. Vaccaro, have a trekked to

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Washington, DC to tell the Senator's office just

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how horrible an idea that is. But, the intent is

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similar to yours, sir, and to ours, to ensure that

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fans have the most fair access to those tickets up

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front at the time of the initial sale at the price

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being made initially available.

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CHAIRPERSON LEROY COMRIE: Okay.

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2 Council Member Koppell, you have some questions?

3 COUNCIL MEMBER KOPPELL: Yeah, I
4 just was perturbed at the Ticketmaster response to
5 your question about what the settlement in New
6 Jersey provided. The answer given was the
7 settlement is public. That's not a satisfactory
8 answer. We want to know what the settlement
9 provided. Please do not tell us that the
10 settlement is public.

11 JOSEPH FREEMAN: Sure, I'm happy to
12 go over the terms in--

13 COUNCIL MEMBER KOPPELL: Please do.

14 JOSEPH FREEMAN: -- in greatest
15 lengths you want.

16 COUNCIL MEMBER KOPPELL: Please do.

17 JOSEPH FREEMAN: So, leading up to
18 the Bruce Springsteen on-sale, we had a program
19 nationwide in which we provided any consumer,
20 whose primary ticket request could not be met
21 simply because of the supply and demand imbalance,
22 we gave the option to that consumer, go back and
23 try again. Go back and try for fewer tickets. Go
24 back and try for other sections in the house. Or,
25 feel free, by clicking here, clicking through, in

1
2 a very transparent way, to look at other options
3 in the resale marketplace. After the Springsteen
4 on-sale, we really heard, loud and clear, how
5 unhappy fans were with how that went. In
6 addition, we had some technology issues. And, we
7 had some server issues that day 'caused by the
8 overwhelming demand for those shows. As a result
9 of that, the Consumer Protection Bureau in the New
10 Jersey Attorney General's office received a very
11 high level of complaints. And, we were very
12 sensitive to that. And, obviously, the Attorney
13 General took great umbrage at the level of
14 consumer distress.

15 In the days following the
16 Springsteen concert, before we even had heard from
17 the Attorney General's office, we announced two
18 programs. One was that we would suspend the
19 links. They weren't working. The intent, while
20 quite frankly simply to give consumers additional
21 options, were not received that way. And, we
22 needed to step back and try to do better. We also
23 announced that the TicketsNow website, which is a
24 resale site akin to Mr. Vaccaro's that we
25 purchased 15 months ago, would no longer allow

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2 third-party brokers or anybody to list tickets for
3 sale on that marketplace prior to the time of the
4 initial sale to the public. It just created all
5 the wrong perceptions and, quite frankly, it gave
6 rise to a mistaken assumption that Ticketmaster
7 was somehow diverting tickets. Other resale
8 marketplaces parenthetically, including
9 Mr. Vaccaro's, continued to allow those pre-
10 listings.

11 The New Jersey Attorney General and
12 ourselves entered into a settlement, which called
13 for the following. For one year, we agreed, and
14 we'd already announced publicly we were going to
15 do this, but for one year, we agreed that we were
16 not going to do those links and that when we do
17 them, the click-through option links, and that
18 when we do them again, we were only going to do so
19 in consultation with General Milgram's office,
20 which we're more than happy to do.

21 The agreement also said that we
22 would no longer allow the prelisting of tickets
23 for concerts, which, again, we had announced we
24 were going to be doing even prior to the deal
25 being announced-- the Attorney General contacting

1
2 us, excuse me. There was also a provision in
3 which the folks we would work with the event
4 providers to try to get tickets for all of the
5 people who had complained to General Milgram's
6 office. Because we don't control the tickets, we
7 were largely dependent on the goodwill of our
8 client at the Meadowlands, who I think have been
9 able to come through from whatever tickets they
10 had access to, a number of tickets.

11 There was a provision where those
12 who were not able to be satisfied were going to
13 receive gift cards or gift certificates for future
14 purchases. My latest information is that it won't
15 even be necessary to invoke that provision.

16 There was a provision, as well,
17 some internet marketing provisions in terms of how
18 the TicketsNow name could be used to market across
19 the internet vis-à-vis Ticketmaster.

20 And then, as received a lot of
21 publicly, there was the \$350,000 assessment, as
22 well. That's what I can recall.

23 COUNCIL MEMBER KOPPELL: Well, the
24 general provisions that you agreed to in New
25 Jersey, and I've heard them, but I don't

1
2 necessarily understand each one, but, do those
3 provisions also apply to sales in New York?

4 JOSEPH FREEMAN: Those sale
5 provisions apply across the United States. We're
6 doing it in Canada. We're doing it all across
7 North America. We're working hard to improve the
8 consumer experience in every way, shape and form.
9 This entire business needs to do better. The
10 ticketing purchase experience needs to be as
11 enjoyable or close to as enjoyable as going to the
12 event itself. We know we need to do better. And,
13 quite frankly, the entire ticketing and resale
14 industry needs to do better.

15 COUNCIL MEMBER KOPPELL: So, as I
16 understood your testimony, it was that, generally
17 speaking, the venues or the people who are
18 offering the tickets through you, and you, have
19 limitations to limit the number of tickets that
20 any individual purchaser can get.

21 JOSEPH FREEMAN: We're the agent.
22 Our client, whether it's the promoter, the venue,
23 the team, instructs us, their ticketing service
24 agent, on the terms of the sales to the public.
25 One of the terms that we typically receive from

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2 our clients, and you can see it for almost any
3 concert that's being offered for sale and most
4 games, is a ticket limit per purchase, whether
5 it's four, six or eight, the event provider
6 instructs us on what they want that number to be.
7 We enforce it on the web. And, when asked by the
8 client, we'll go back, and we did this a lot after
9 Hannah Montana and other troubling events, we'll
10 go back, when requested, and manually go through
11 the names and try to find anyone who circumvented
12 that ticket limit. And, we'll take tickets back.
13 We do it regularly.

14 COUNCIL MEMBER KOPPELL: So, if
15 that ticket limit, if that practice is enforced,
16 it should accomplish what the Chairman's trying to
17 accomplish with the legislation.

18 JOSEPH FREEMAN: Not specifically,
19 because you have to realize, sir, you know, the
20 resale industry in this country is a multi-billion
21 dollar industry. The folks who are using
22 unscrupulous means to get tickets and who are
23 using unscrupulous means specifically by using
24 automation, they're not going to use the same
25 credit card name and the same address and the same

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2 number to purchase tickets through multiple
3 channels. So, they--

4 COUNCIL MEMBER KOPPELL:

5 [Interposing] No, you misunderstood my question.
6 I said if those provisions are enforced, it would
7 accomplish what the Chairman is trying to
8 accomplish.

9 JOSEPH FREEMAN: They are enforced.

10 And, I believe that the industry's goal to limit
11 the number of tickets an individual can purchase
12 is already being accomplished with the key caveat
13 to the technology issue.

14 COUNCIL MEMBER KOPPELL: So, what

15 I'm trying to get at, I think you're understanding
16 it, is that if those provisions were enforced, if
17 they were enforced and could be followed, the
18 Chairman's objectives would be achieved.

19 JOSEPH FREEMAN: They are--

20 COUNCIL MEMBER KOPPELL: Is that

21 correct?

22 JOSEPH FREEMAN: They are enforced

23 and they are being followed. And, we are fighting
24 aggressively against any technological means to
25 circumvent our enforcement of those limits.

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2 COUNCIL MEMBER KOPPELL: But, your
3 testimony, and you're being a little bit unclear
4 right now, but, your testimony was that some
5 people are able to circumvent those provisions.

6 JOSEPH FREEMAN: Right. And, we
7 believe they're breaking the law.

8 COUNCIL MEMBER KOPPELL: So then,
9 if they're able to circumvent them, they're not
10 being enforced.

11 JOSEPH FREEMAN: They're being--
12 all efforts are being taken by everybody
13 associated with putting the event on to enforce
14 the limits.

15 COUNCIL MEMBER KOPPELL: Okay.

16 JOSEPH FREEMAN: They're taken very
17 seriously, sir.

18 COUNCIL MEMBER KOPPELL: Okay.
19 Now, we've gotten to the essence of it. If we
20 could ensure that they were enforced, we wouldn't
21 need this bill or anything like it. So, it seems
22 to me then, one issue is how do we ensure that
23 they can be enforced?

24 JOSEPH FREEMAN: Um, hm.

25 COUNCIL MEMBER KOPPELL: Right? Do

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you agree with that so far?

JOSEPH FREEMAN: I agree that there is a need for laws to outlaw the use of bots and go after people using automation in an unscrupulous manner, absolutely.

COUNCIL MEMBER KOPPELL: So, that would accomplish what the bill is trying to accomplish.

JOSEPH FREEMAN: Outlawing the use of automation, as over a dozen states have already, absolutely.

COUNCIL MEMBER KOPPELL: So, other states have taken steps to allow these provisions to be enforced.

JOSEPH FREEMAN: No, the provisions are being enforced, sir. There is the use of technology that, at times, gets around these provisions.

COUNCIL MEMBER KOPPELL: Well, they're not being enforced if they can be gotten around.

JOSEPH FREEMAN: No, I think we need to distinguish, sir, between the event providers and the ticketing company actively

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enforcing the limits. If we saw that Mr. Don Vaccaro had bought 12 tickets, when there was a four-ticket limit, we would strike the eight tickets that were--

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COUNCIL MEMBER KOPPELL: Oh, I understand.

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JOSEPH FREEMAN: --purchased.

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COUNCIL MEMBER KOPPELL: You're trying to enforce them. But, you're not being able to because people are getting around your enforcement efforts.

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JOSEPH FREEMAN: I don't see how the proposal, as currently crafted, without specifically addressing the automated technology issue, would enhance the level of enforcement.

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COUNCIL MEMBER KOPPELL: We're getting away from that. I'm not asking about that. I'm asking you-- I don't know why you don't understand this. I don't think I'm being so obscure. If we could stop the manner in which enforcement is being circumvented, then we would accomplish what the bill accomplishes.

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JOSEPH FREEMAN: Now, I understand. I apologize. I didn't understand. Yes, I agree

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with that statement--

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COUNCIL MEMBER KOPPELL: Okay.

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JOSEPH FREEMAN: -- sir.

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COUNCIL MEMBER KOPPELL: So, you

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say other states have taken steps that we haven't

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in New York to allow for proper enforcement of

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these provisions.

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JOSEPH FREEMAN: Correct.

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COUNCIL MEMBER KOPPELL: Right. Is

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there effort being made in New York to allow for

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the enforcement of the-- better enforcement of

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these provisions?

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JOSEPH FREEMAN: I believe there is

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a proposal, a proposed legislation I've seen up in

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Albany that would outlaw the use of automated

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technology.

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COUNCIL MEMBER KOPPELL: I see.

19

And, is it your understanding that that's

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proceeding or moving or...

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JOSEPH FREEMAN: I'm not sure.

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I've seen it being introduced in the last couple

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weeks. And, there's been a lot of activity in

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Albany with the impending sunset. But, I don't

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know.

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COUNCIL MEMBER KOPPELL: Could we do anything on a municipal level to outlaw this technology?

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JOSEPH FREEMAN: I don't know what - this is getting beyond my realm of understanding. I don't know what enforcement capabilities might exist at the municipal level.

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I know that states sometimes are even impaired and that it is, you know, computer crimes in general are often best and most effectively enforced at a federal level.

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COUNCIL MEMBER KOPPELL: Well, if

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state-- but, you say other states have done it on a state basis.

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JOSEPH FREEMAN: In the last couple years, yes.

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COUNCIL MEMBER KOPPELL: And, have they been successful in doing it on a state basis?

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JOSEPH FREEMAN: Well, laws have been passed. And, we're, you know, eagerly awaiting the day when there are some enforcement actions.

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COUNCIL MEMBER KOPPELL: Okay.

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Well, let me just say, Mr. Chairman, that if the

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2 solution, and I'm not saying I'm opposed to your
3 proposal at this point, but, if the solution is
4 some state legislation and, at the very least, I
5 think we should consider a Resolution calling on
6 the State Legislature to pass such legislation,
7 and maybe explore whether we can do it on a
8 municipal basis. I know there are legal barriers
9 to what we can do as a municipality. But, if
10 that's the solution and, at least this witness
11 seems to suggest it is, then, I think we should
12 pursue that.

13 CHAIRPERSON LEROY COMRIE: We did
14 get a Resolution suggestion from some members of
15 the industry. But, we want to beef it up before
16 we present it. It was a little too vague and did
17 not really deal with all of the issues that we've
18 been talking about this morning. But, we will
19 hopefully have a Resolution to submit by the next
20 Stated Meeting.

21 COUNCIL MEMBER KOPPELL: Good. I
22 endorse that. And, as I said, I'm not necessarily
23 opposed to this legislation--

24 CHAIRPERSON LEROY COMRIE: Right.

25 COUNCIL MEMBER KOPPELL: -- but,

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2 certainly that is something we should consider.

3 CHAIRPERSON LEROY COMRIE: Well,

4 again--

5 COUNCIL MEMBER KOPPELL: Thank you.

6 CHAIRPERSON LEROY COMRIE: -- this
7 is a hearing clearly, you know, we know that we're
8 not the only entity or legislative body in this
9 role. But, we wanted to weigh in on it. And,
10 definitely, hopefully, give some impetus and
11 momentum to Albany to move on this bill, since the
12 sunset provision is coming up in June.

13 COUNCIL MEMBER KOPPELL:

14 Mr. Chairman, you may know that 15 years ago, when
15 I was Attorney General, I tried to deal with this
16 subject somewhat frustrated, but it remains to be
17 a problem. And, I hope we can make some progress.

18 CHAIRPERSON LEROY COMRIE: Well, I
19 hear you. And, hopefully that, you know, from
20 this hearing we can then, I know I will be talking
21 to Senator Craig Johnson and also to the Assembly
22 Chair and also to the Chair of Consumer Affairs in
23 the Assembly to talk about what we can do on this
24 particular issue. We've been joined by Council
25 Member John Liu from Queens.

1
2 I want to thank both gentlemen for
3 coming. Was there anything else that you wanted
4 to add, Mr. Vaccaro?

5 DONALD VACCARO: You know, the only
6 thing that I--

7 CHAIRPERSON LEROY COMRIE: Oh, I'm
8 sorry.

9 DONALD VACCARO: I'm sorry.

10 CHAIRPERSON LEROY COMRIE: I'm
11 sorry, Council Member Gennaro had a question. I
12 didn't realize. Sorry.

13 COUNCIL MEMBER GENNARO: No, thank
14 you. No, that's fine, Mr. Chairman. I was just,
15 you know, listening to the back and forth between
16 the witness and Council Member Koppell. And, I
17 just wish to be associated with Councilman
18 Koppell's desire and your desire, Mr. Chairman, to
19 try to prompt the State to do something with
20 regard to the technology. That really seems to be
21 causing all the problems, right. This is what's
22 happening. And, I'm not an expert on this. But,
23 just trying to get ready for the hearing and, you
24 know, listening to the colloquy here, it is a
25 fact, is it not, that these entities come in with

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2 their technology. They buy up all the tickets in
3 15 seconds and everyone gets shut out.

4 JOSEPH FREEMAN: They're not buying
5 up all the tickets. And, for, you know, concerts
6 like Springsteen in New Jersey, those tickets are
7 going to sell out virtually instantaneously even
8 if there's not a single user of technology out
9 there. The demand is so high, our system has sold
10 as many as 14,000 tickets in a minute. When
11 you've got thousands and thousands of people
12 trying to buy the same tickets and, as Mr. Vaccaro
13 correctly points out, you know, Ticketmaster only
14 receives a portion of the inventory. We sell each
15 and every ticket that's made available to us to
16 sell on our client's behalf. But, you know, what
17 we sell, we sell to the public and we try to do it
18 in the most fair and equitable way. But, you
19 know, assume, if there's a 15,000-seat arena and
20 assume for the moment, we get 12,000 seats, we can
21 sell those seats out in minutes, irrespective of
22 automated technology. If the demand--

23 COUNCIL MEMBER GENNARO:

24 [Interposing] I've been on like when tickets go on
25 sale the stroke of whatever, I mean, I'm on the

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internet at one second after. Gone. Nothing.
You can't get two seats together.

JOSEPH FREEMAN: It could be
technology. I would bet you're going after some
extremely high demand shows and that thousands and
thousands of people are simultaneously trying to
get those same--

COUNCIL MEMBER GENNARO: Right.

JOSEPH FREEMAN: -- tickets.

COUNCIL MEMBER GENNARO: I thought
you were arguing that technology's a problem.
Now, you're saying technology's not a problem.

JOSEPH FREEMAN: I would
distinguish between illegal and unscrupulous
technology, which is designed to give people an
unfair and illegal advantage when trying to access
tickets, as opposed to, you know, wonderful things
like internet technology and internet commerce
that allow for tickets to be distributed in a much
more efficient and consumer-friendly way. The
difference is 20 years ago, when you were trying
to buy those same tickets, you would have seen
hundreds, if not thousands, of people lined up
around the block. Now, it's happening online.

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2 You're not necessarily--

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CHAIRPERSON LEROY COMRIE:

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[Interposing] Well, it's fun. Lining up--

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JOSEPH FREEMAN: -- seeing

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[crosstalk]--

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CHAIRPERSON LEROY COMRIE: -- on

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the block was fun. I enjoyed lining up for the

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Prince concert in the '70s.

10

COUNCIL MEMBER GENNARO: I'm

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confused. Is the, you know, technology problem

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that people are talking about, is it a legal, but

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unfortunate phenomenon that we want to make

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illegal or somehow restrict? Or, is it an illegal

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phenomenon that we already have laws to deal with

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that aren't being enforced? Or, a combination of

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both?

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JOSEPH FREEMAN: It's a combination

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of both. We went after a company based in

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Pittsburgh or eastern Ohio called RMG about a year

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and a half ago. They provided an automated

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computer technology to willing users that enabled

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them to access our system, in violation of our

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terms of use, in violation of our copyrights, at a

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rapid pace, far more aggressively, if you will,

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2 than any individual trying to get tickets the fair
3 way by getting online at the stroke of the moment
4 the tickets were made available. We received a
5 preliminary and then, a permanent injunction from
6 a Federal Court in California. And, we
7 effectively shut that purveyor of technology down.
8 We know they're not the only one out there. And,
9 we are continuing to invest a ton of resources in
10 trying to--

11 COUNCIL MEMBER GENNARO:

12 [Interposing] And, the way people would have
13 access to that, they buy some kind of subscription
14 or access to that method of getting to your
15 system?

16 JOSEPH FREEMAN: Yeah, it was a
17 licensed software that people motivated to use
18 unscrupulous means to get access to tickets could
19 go out and purchase. And, it was our
20 understanding, and we didn't actually learn that
21 much about this illegal operator before they shut
22 down their tent, before the Court made them shut
23 down their tent. But, that's our understanding.

24 COUNCIL MEMBER GENNARO: Okay. So,
25 that is illegal now. And so, the question is

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making sure that you sort of get at that. Okay.
Got it.

JOSEPH FREEMAN: Yeah.

COUNCIL MEMBER GENNARO: Now, with regard to what's going on in Albany, where there's some piece of legislation that is presumably not aimed at that, but trying to make something else illegal, which is now legal?

JOSEPH FREEMAN: Your confusion is spot on. There has been, in addition to the computer crime acts and the intellectual property violations that we acted under, as a private entity, there have been probably about a dozen states now, who, in the last two, three years, prompted in large part by the outcry over Hannah Montana, who have passed laws to specifically outlaw the use of the kind of technology that we went after. And, I think the mindset was highlight this as an issue of public policy concern and give specifically the tools to law enforcement, who might wonder whether or not the existing computer crime laws can be applicable; give them the specific mandate that this is something the legislature saw as a matter of

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concern. And, here's a mandate to go enforce the law and make sure ticket distribution is as safe as-- fair as possible.

COUNCIL MEMBER GENNARO: So, the State law is going after the same thing that you're going after.

JOSEPH FREEMAN: Correct. And, there are also Federal computer crime laws as well. But, yes.

COUNCIL MEMBER GENNARO: Okay. I'm still confused. Okay.

JOSEPH FREEMAN: I'm sorry.

COUNCIL MEMBER GENNARO: Yeah. But, my daughter does have 11th row to the Jonas Brothers. So, you know, I'll be able to get past June or July, whenever that show is, yeah.

JOSEPH FREEMAN: Hopefully, through Ticketmaster.

COUNCIL MEMBER GENNARO: My son took care of it, who knows how to do that stuff, yeah. I just paid for it, yeah. Okay. Thank you, Mr. Chairman.

CHAIRPERSON LEROY COMRIE: Okay. Just one last question for Ticketmaster. You

1
2 talked about the idea of having a fair and
3 equitable process. Has Ticketmaster come up with
4 what they feel that fair and equitable process
5 could be for people to get online at midnight to
6 get an opportunity to have a fair and equitable
7 process to get Jonas Brothers' tickets or, you
8 know, tickets to Hannah Montana or to whatever
9 that hot topic is or hot venue is for that season?

10 JOSEPH FREEMAN: Well, I take it
11 when you say midnight, you mean the moment shows
12 go on sale--

13 CHAIRPERSON LEROY COMRIE: Right.

14 JOSEPH FREEMAN: -- which is
15 typically in the morning. You know, there's a
16 saying in our industry, they only make one first
17 row.

18 CHAIRPERSON LEROY COMRIE: Right.

19 JOSEPH FREEMAN: And, we are never
20 going to be able to make more seats. The supply
21 of inventory is [crosstalk]--

22 CHAIRPERSON LEROY COMRIE: No, no,
23 I understand. But, you said--

24 JOSEPH FREEMAN: But--

25 CHAIRPERSON LEROY COMRIE: --

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2 talked about a fair and equitable process--

3 JOSEPH FREEMAN: Absolutely.

4

5 CHAIRPERSON LEROY COMRIE: -- like
6 when you go online with the airlines now, which
7 you go on with, you know, I went on through four
8 different sites before I got my price that I
9 wanted. And, they all tell you that they show you
10 the seats on the plane. Do you show the seats in
11 the venue or--

12 JOSEPH FREEMAN: You know, we're
13 going to have that--

14 CHAIRPERSON LEROY COMRIE: --
15 before the person--

16 JOSEPH FREEMAN: -- capability one
17 day soon, I hope. Right now, we have a best
18 available seating algorithm that distributes
19 tickets as effectively, efficiently and fairly out
20 of the inventory that's provided to us.

21 CHAIRPERSON LEROY COMRIE: Does the
22 person know what seat and row they're getting at
23 the purchase point?

24 JOSEPH FREEMAN: Oh, absolutely.
25 They have two or three minutes to decide, once
seeing the specific tickets they have the

1
2 opportunity to buy, whether or not they want to
3 purchase them.

4 CHAIRPERSON LEROY COMRIE: Okay.

5 JOSEPH FREEMAN: There's even a
6 clock that ticks down the time because--

7 CHAIRPERSON LEROY COMRIE: Well,
8 your--

9 JOSEPH FREEMAN: -- the reason we
10 rush people in a sense is if someone's using
11 technology and they ultimately aren't purchasing,
12 we want to shove them off the system as quickly as
13 possible.

14 CHAIRPERSON LEROY COMRIE: Okay.
15 But, the issue of fair and equitable, you really
16 haven't been able to deal with it, create a full
17 system yet. Is that what you're saying?

18 JOSEPH FREEMAN: Not at all, sir.
19 To the contrary, we have an extraordinarily fair
20 and equitable system. We simply can't control,
21 you know, whether Mr. Springsteen is going to play
22 a handful of shows or ten shows at a given
23 facility. If the supply were there, it would be
24 much more equitable simply in terms of all the
25 consumers being satisfied at getting tickets at a

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2 price initially set by the artist. But, that's
3 why I mentioned the Garth Brooks example.

4

CHAIRPERSON LEROY COMRIE: Right.

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6 But, your logistical concerns about what
7 alternative methods could be recommended, will you
8 have that ready before the hearings are done in
Albany?

9

JOSEPH FREEMAN: I'm not
10 recommending logistical alternatives. I'm
11 suggesting that technology is going to--

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CHAIRPERSON LEROY COMRIE:

13

[Interposing] Will solve itself, right.

14

JOSEPH FREEMAN: -- blaze the trail
15 in terms of making what is the best possible
16 distribution system right now far more
17 technologically sophisticated and better and
18 consumer-friendly.

19

CHAIRPERSON LEROY COMRIE: Right.

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But, so, you're saying technology is your
21 alternative method or technology is your
22 alternative-- is your means of making that
23 equitable--

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JOSEPH FREEMAN: [Interposing] I

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think, I--

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CHAIRPERSON LEROY COMRIE: --

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hopefully.

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JOSEPH FREEMAN: -- think the

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advent of paperless ticketing, as takes place for

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airline travel, is going to bring a far higher

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level of consumer satisfaction and transparency to

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the process.

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CHAIRPERSON LEROY COMRIE: Okay.

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But, you would prefer that being done within the

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industry and not necessarily legislative?

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JOSEPH FREEMAN: There are all

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kinds of public policy, you know, goals that we

14

share with you. But, mandating a portion of

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tickets to go back to the box office, I

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respectfully submit, would take us back to a time

17

of long lines and cold weather.

18

CHAIRPERSON LEROY COMRIE: Okay.

19

Well, I knew you were going to circle back to that

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in the beginning of your statement. But, I just

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want to, you know, again, to admit that when we

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say box office, I'm not necessarily meaning the

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long lines. I'm talking about having a box office

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that could do online sales, as well. And, that

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leads me back to my last question. Do you think

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2 that it's a good public policy for a venue to
3 create a resale department within its own venue of
4 tickets that they're selling, such as the has been
5 happening lately with the Garden and Yankee
6 Stadium, where they're reselling tickets at their
7 own venue?

8 JOSEPH FREEMAN: Well, let me take
9 a step back. We urge our clients to have their
10 box office open for sales. We want consumers to
11 have that as an alternative if they choose they
12 don't want to go through Ticketmaster and they
13 want to buy at the venue, 'cause when a--

14 CHAIRPERSON LEROY COMRIE: Right.

15 JOSEPH FREEMAN: -- ticket is sold
16 at the venue, our service charge isn't assessed.
17 And, we want consumers to have that option. To
18 answer your question, I'm not-- we don't do resale
19 on behalf of the Yankees. I know they have a deal
20 through Major League Baseball that makes Stubhub
21 the official resale provider. We have similar
22 deals with the other professional sports leagues.
23 And, as Mr. Vaccaro correctly alluded to, the
24 sports teams have a strong incentive to offer
25 their season ticketholders all kinds of resale

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options because they want to attract, retain and grow their season ticket base particularly in these challenging times.

CHAIRPERSON LEROY COMRIE: Okay.

Thank you. Mr. Vaccaro, did you want to add anything else? I know you've been itching to...

DONALD VACCARO: Yeah, the only thing, you know, I think the bot issue is a real issue. But, it's not that big of an issue. I think the bigger issue is transparency. And, I just want to speak specifically to Councilman Koppell, am I pronouncing it correctly, sorry, Koppell's concept. When we talk about fair and equitable distribution of tickets, you know, something came to light last May. It's important to know here that Ticketmaster does sell software directly to ticket brokers through one of their divisions that helps them buy tickets. It helps them purchase tickets quickly. It says on their literature. So, and sell tickets. Okay. And, they also allow those brokers on that exchange to list tickets before the tickets have gone on sale, although they don't sell it on the TicketsNow. They do do that.

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Also, Ticketmaster owns a few other various ticket resale companies. One's SLO; One's ILoveAllAccess, which is an Irving Azoff company, and the third one is Ticket Exchange. Well, in May of last year, the CEO, Sean Moriarty, when to Las Vegas. He met with, a closed door meeting, with 100 ticket brokers. And, he basically admitted that look, Ticket Exchange is getting tickets from artists directly. Ticketmaster's using their own software to hold back those tickets from public sale and then, scalp them for whatever they can on Ticket Exchange. He admitted it. It's on tape. He admitted it.

So, I just don't want you to have the notion that the reason why tickets aren't available for the public, the best tickets, is because of software bots. It's really the biggest problem is venues, managers, promoters, venues, managers, promoters, primary ticketers holding back tickets. They sell them in their own packages. ILoveAllAccess, which is now a Ticketmaster company, scalps premium packages and silver packages right through the Ticketmaster platform.

1
2 So, when Ticketmaster talks about
3 fair and equitable access of tickets, they're only
4 talking about fair and equitable access to
5 whatever they can't get their hands on. And, the
6 reason why all this stuff is coming to light now
7 is because of the merger with Live Nation and
8 Ticketmaster. Ticketmaster's the number one
9 primary ticket software in the country. Live
10 Nation is the number two primary ticket software
11 company. Ticketmaster is the largest personal
12 manager of entertainment artists in the world.
13 Okay. And, Live Nation is the largest concert
14 promoter in the world.

15 So, you get into this behemoth of
16 three companies coming together and trying to
17 control the market. That's why paperless tickets
18 is actually so important to them, as well, because
19 if they can control paperless tickets, they can
20 control the whole resale market, as well.

21 So, I just want to point out to you
22 that the problem is, and I think you alluded to
23 it, is just that those tickets aren't available to
24 the public. And, the one way to do it
25 legislatively is transparency. If everyone had to

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2 say hey, look, we're not going to sell the best
3 three or 4,000 seats to the public, where Hannah
4 Montana, where at some venues, it was almost 50%
5 of the tickets didn't go to the public. And, if
6 they made that aware to consumers, the consumers--
7 there would be consumer uprising. And, those
8 artists would be forced to put those tickets on
9 sale if they wanted the perception to be good in
10 the marketplace.

11

So, anyway, I just wanted to
12 address that so, it was a clear view of the
13 secondary market.

14

JOSEPH FREEMAN: May I briefly
15 respond, just because we're being dragged through
16 the mud so unfairly and inaccurately?

17

CHAIRPERSON LEROY COMRIE: Okay.

18

JOSEPH FREEMAN: Simply stated, the
19 alleged scalping of ILoveAllAccess and Ticket
20 Exchange, what Mr. Vaccaro is grossly misstating
21 is that there is an effort in this industry, with
22 the event providers to dynamically price at the
23 time of initial sale tickets that are among the
24 best. So, Mr. Vaccaro obviously is not in favor
25 of efforts by event providers to price the ticket

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2 right up front and reduce the uplift on the resale
3 side. So, some of the programs Mr. Vaccaro's
4 referring to, when you buy the ticket, it's an
5 initial sale. The price you paid, dynamically
6 priced, is printed on the actual ticket. It's an
7 initial sale. ILoveAllAccess sells VIP access;
8 meet the band; attend the soundcheck; go to a wine
9 and cheese reception. I can speak at length about
10 all the red herrings you've been hearing. I'm
11 happy to go on at length now. I doubt that what
12 you want. I'm happy to meet with any of you
13 individually if you want more information. Thank
14 you.

15 COUNCIL MEMBER KOPPELL:

16 Mr. Chairman, I didn't quite understand what the
17 gentleman just said. Are you saying that some of
18 the tickets are diverted from the sale at the
19 regular price to these resellers? I didn't
20 understand--

21 JOSEPH FREEMAN: No--

22 COUNCIL MEMBER KOPPELL: -- what
23 you were saying.

24 JOSEPH FREEMAN: -- emphatically
25 not, sir. What I'm saying is what Mr. Vaccaro is

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2 describing as resale, in fact, is not. We have
3 programs, clearly described on the website, where
4 certain tickets are made available for sale for
5 the first time to the public. Now, they're not
6 our tickets. Remember, we're working in
7 conjunction with the owner of the tickets.
8 They're made available for sale. They're
9 dynamically priced, like an airline ticket. The
10 price can go up and down depending on the time
11 leading up to the show. They've never been made
12 available for sale to the public before. They're
13 not being scalped or redirected or anything like
14 that. And, the price the consumer pays is the
15 price printed on the ticket, because it's an
16 initial sale.

17 COUNCIL MEMBER KOPPELL: So, what
18 you're saying is that, let's say, for an event,
19 let's say a Bruce Springsteen concert, let's say,
20 a popular concert--

21 JOSEPH FREEMAN: Um, hm.

22 COUNCIL MEMBER KOPPELL: -- there's
23 a certain number of tickets that are available at,
24 let's say, \$100 a ticket. And then, there are
25 other tickets that are available at some sort of

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2 variable price that depends on demand. Is that
3 what you're saying?

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5 JOSEPH FREEMAN: Well, Bruce
6 Springsteen's a wonderful example because the
7 event provider, including Mr. Springsteen's
8 people, were not interested in that program. We
9 didn't do it. But, many times, in a fully
10 transparent way, all on the Ticketmaster website,
11 all clearly described, tickets are made available.
12 I invite you to look. I think there are Beyonce
13 tickets online for sale right now, specifically
14 delineated. It's called the Platinum ticket
15 program, made available for sale. The goal being,
16 by the event provider, by the artist, who's no
17 longer making the lion's share of their income
18 from selling recorded music because we all know
19 what's happened to the recorded music industry,
20 touring is not a loss leader like it was 20 years
21 ago. So, a lot of the event providers are
22 motivated to capture as much of the actual value
23 of the ticket at the time of the initial sale,
24 quite frankly, to prevent the resellers from
25 getting to mark up the tickets as much as they do.

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COUNCIL MEMBER KOPPELL: So, that's

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not a resale. It's a price that's set by the event provider for some sort of premium ticket.

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JOSEPH FREEMAN: It's a very good characterization. We participate. We support the system online. But, yes, that's a very good characterization.

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COUNCIL MEMBER KOPPELL: But, the higher price, does that come with anything? You said it comes with wine and cheese? Or, that's just some--

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JOSEPH FREEMAN: [Interposing] No, I was delineating the many different programs that are out there.

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COUNCIL MEMBER KOPPELL: I see.

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JOSEPH FREEMAN: Because there's also, and just taking some of the things that Mr. Vaccaro was throwing out there, there are also programs long in existence where you can buy a VIP package, where, for a premium price, in addition to a very good ticket, you can have some kind of a backstage access to meet the artist or attend a soundcheck or something like that.

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COUNCIL MEMBER KOPPELL: So, are those tickets that are in this premium category,

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2 are they like sort of the premium seats at Yankee
3 Stadium? Is that what it is, essentially?

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JOSEPH FREEMAN: I'm not that
5 familiar with the premium seats in Yankee Stadium.
6 It's determined by the event provider; not by
7 Ticketmaster what tickets are made available for
8 these kinds of programs.

9

COUNCIL MEMBER KOPPELL: Well, I
10 suppose we never suggested that the event provider
11 couldn't set whatever price they wanted to set.

12

JOSEPH FREEMAN: It's the initial--

13

COUNCIL MEMBER KOPPELL: That's
14 never been suggested.

15

JOSEPH FREEMAN: -- sale, it's
16 their prerogative to--

17

COUNCIL MEMBER KOPPELL: Yeah.

18

JOSEPH FREEMAN: -- if they price
19 the tickets too high, they won't sell.

20

COUNCIL MEMBER KOPPELL: Yeah.

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Thank you.

22

CHAIRPERSON LEROY COMRIE: Council

23

Member Gennaro has a question.

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COUNCIL MEMBER GENNARO: Yeah,

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thank you. I'm just trying to sort through what's

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2 going on, Mr. Chairman. And, Council Member
3 Koppell and I'm not-- there's a market for the
4 tickets. There's supply and demand. And, either
5 you're going to have like some kind of bot
6 problem, where people are going to go in and, you
7 know, buy the tickets and then, you know, they're
8 going to get their market price, whatever people
9 are willing to pay for them. Or, through the sort
10 of Ticketmaster paradigm, where in conjunction
11 with the artist, some tickets are dynamically
12 priced, meaning that they want to get like what
13 the market will bear for them. I mean, I don't
14 think it's, you know, completely unfair to
15 characterize that as holding them back, so to
16 speak. I mean, that's one way of sort of looking
17 at it. But--

18 JOSEPH FREEMAN: [Interposing] I
19 don't agree with [crosstalk].

20 COUNCIL MEMBER GENNARO: -- meaning
21 that it's not something that's--

22 JOSEPH FREEMAN: [Interposing] Is
23 an airline holding tickets back [crosstalk]?

24 COUNCIL MEMBER GENNARO: Yeah,
25 yeah, I mean, now, let me-- I'm having a little

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2 thought process here. And, but, it's something
3 other than, you know, listing a ticket for like a
4 certain price and selling it. It's dynamically
5 priced, meaning that it's keyed directly to what
6 people would be willing to pay for it. And, I'm
7 not saying that that's un-American. I'm just
8 saying that's a phenomenon.

9 And, what we really have here,
10 Mr. Chairman, that there is just a, you know,
11 market price for these tickets. And, at the end
12 of the day, like that's what they're going to sell
13 for. And, you know, there you have it. And, the
14 question is whether we, on our own, figure out
15 some mechanism to deal with this in the interests
16 of fairness or whatever or we call upon the State
17 Legislature by Resolution to sort of, you know,
18 institute some transparency, fairness, or
19 whatever, by whatever mechanisms they may be
20 contemplating with regard to the sunset that's
21 coming up and how we go forward from that.

22 And so, you know, for me, this is
23 less about good guys and bad guys. It's about,
24 you know, artists and other entities trying to
25 figure out how they can, you know, maximize

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2 revenue from a commodity that people are willing
3 to pay a lot of money for. And so, that's more,
4 you know, musings than a real question. But, it
5 seems like, you know, the market is what it is.
6 And, I think we would do well to sort of, you
7 know, call upon the State Legislature through
8 whatever mechanism they feel are, you know, just
9 and appropriate to bring transparency, visibility,
10 fairness so that, you know, people who spent a lot
11 of money through their tax monies and whatever to
12 see some of these venues go up, actually have a
13 chance to see a show.

14 So, I'd be very supportive of us,
15 you know, reaching out to the State, making sure
16 that on a Statewide basis, the State, with, you
17 know, all the jurisdiction they have, were able to
18 bring some fairness on a State level to these
19 interesting issues, Mr. Chairman. So, I'd be
20 supportive of your attempt and Council Member
21 Koppell's - - to, you know, reach out to the State
22 regarding what we're doing here locally. I know
23 there are issues that would stem from, you know,
24 box office lines and this and that, even other
25 entities like, even in my own district, we have,

1
2 you know, St. John's University, who is like, you
3 know, in the ticket business. And, you know, and,
4 people have legitimate issues with, you know, how
5 the, you know, 15% sort of box office mandate
6 would be administered without a lot of burden.

7 So, but, I certainly appreciate
8 your desire to try to bring some fairness to like
9 what's going on and in this very, you know, sticky
10 and complicated issue. And, I thought I had my
11 hands full with Environmental Protection. But,
12 I'm going to go running back to my committee after
13 this, you know. So, thank you, Mr. Chairman.
14 Thank you, Oliver. Thank you to these gentlemen.

15 CHAIRPERSON LEROY COMRIE: Thank
16 you. I want to thank you gentlemen for coming.
17 We're running out of time. So, I appreciate you
18 being here. And, I will look forward to talking
19 with both of you quickly in the future.

20 JOSEPH FREEMAN: Thank you, sir.

21 CHAIRPERSON LEROY COMRIE: Thank
22 you. Next, we'll hear from Mr. Charles Bell,
23 representing NYPIRG, the Consumer's Union. And,
24 also, I'm sorry, Mr. Leor Zahave [phonetic] from
25 Admit One. Excuse me for mangling your last name.

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Mr. Bell, whenever you're ready, just start.

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CHARLES BELL: Good morning, Chairman Comrie, members of the Committee, ladies and gentlemen. My name's Charles Bell. And, I'm the Programs Manager for Consumer's Union, a nonprofit publisher of Consumer Reports. I'm presenting this statement on behalf of Consumer's Union and also on behalf of the New York Public Interest Research Group, NYPIRG, which is the State's largest nonprofit, nonpartisan student-directed consumer protection organization.

We very much appreciate the opportunity to share our views on this important consumer protection issue, and matter of great interest to the world's sport and live entertainment capital, which is New York City.

We urge you to enact a strong, comprehensive anti-ticket scalping law for New York City and also to adopt a Resolution calling on the State Legislature to restore the strong state anti-ticket scalping law that we had and to end its failed experiment with unlimited scalping.

In our view, ticket scalping is a deceptive and unfair business practice that

1
2 deprives the average sports, music and
3 entertainment fans of opportunities to see popular
4 events. Those that pay scalp prices fork over
5 several times the face price and that's the price
6 that the producers of the event establish as the
7 cost of admission. The best review that we've had
8 of this issue is a report that was done by the
9 Office of the Attorney General in 1999, called
10 'Why Can't I Get Tickets?' And, through the use
11 of extensive evidence that was obtained by
12 subpoena and other interviews, they found that the
13 problem of ticket scalping is rife with
14 corruption, bribery and tax evasion.

15 And, I would submit that what we've
16 heard today that this is-- some people are
17 suggesting this is largely a technology problem
18 that can be solved with a technical fix. We find
19 that when you drill into it, it turns out to be
20 much more complex, that there's a lot more
21 conflicts of interest that are creating this
22 arbitrage opportunity, including covert and
23 undisclosed relationships between the venues and
24 various parties, who release tickets that end up
25 in the hands of scalpers. And so, for that

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2 reason, we believe it's important to have a very
3 systematic investigation and public policy
4 approach to the question.

5 And so, we've got quite a sweeping
6 critique of what we think is wrong with the ticket
7 system. And, I submit our written remarks for the
8 record. But, I guess what I would sort of
9 encapsulate here is we think it's very important
10 that you're asking these questions. In a sense,
11 government turn its back on consumers and created
12 sort of the arbitrage opportunity by deregulating
13 this field, by removing the 45% price cap that
14 could be charged on ticket resales. And, that
15 kind of paved the way for this Wild West
16 atmosphere where many, tens and tens of thousands
17 of fans are frustrated of not being able to get
18 tickets for the shows that they want to see.

19 And, as has been noted here, many
20 of the larger venues are impressed with the public
21 trust by virtue of the fact that they got many
22 taxpayers dollars and public subsidies. And so,
23 we think, for that reason alone, there's a public
24 imperative to keep prices affordable so that
25 residents of New York City and the rest of New

1
2 York State have a fair crack at getting tickets to
3 see their favorite shows.

4 We would note that ticket holds,
5 comps, set aside promotional tickets dramatically
6 reduce the amount of publicly available tickets.
7 Many of these tickets end up in the hands of
8 scalpers. It would be as if you were talking
9 about pricing for the airlines, if the airline
10 took half the seats for the flight off the market,
11 but never disclosed that fact to the consumers.
12 So, we do think that more transparency and
13 disclosure to the consumer can be an agent of help
14 in that situation.

15 There's little transparency in the
16 ticket selling process and no tracking of how
17 tickets and money change hands. This means that
18 consumers have no way to set their expectation
19 about the possibility of obtaining tickets at a
20 fair price. So, in a sense, the public has no
21 reason to trust the way tickets are being sold.
22 People fear that this is a system that's corrupt
23 and that is rigged.

24 So, we would urge a two-track
25 approach. We think it's great that New York City

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2 is looking into ways to protect the ticketholder.
3 And, we would urge you to pass as strong a law as
4 possible. We heard the concerns of Mr. Eiler from
5 the Department of Consumer Affairs. And, we think
6 it would be important to address those issues and
7 make sure that he has the means or his department
8 will have the means that they need to effectively
9 enforce the law. We also were concerned that
10 setting aside a certain amount of tickets for the
11 box office should be done in a way that ensures
12 that there are the type of tickets that fans want,
13 that it's not just the tickets in the nosebleed
14 section. And, this sort of goes to the issue of
15 how do the fans get a fair crack at what the venue
16 has to offer.

17 Also, we would like to see you pass
18 a strong Resolution calling on the State not to
19 extend the sunset that repealed the 45% cap on
20 ticket scalping in New York State. There's a
21 bill, S-3821 sponsored by Senator Craig Johnson,
22 that would extend the sunset. We think instead
23 the State should be urged to do an extensive
24 investigation of what consumer problems have been
25 in this marketplace. The State Consumer

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2 Protection Board was directed to do a study, which
3 I believe was to be available in 2006 and 2007,
4 which, for various reasons, has not come back to
5 the public. And, we don't see how the State can
6 appropriately address all the consumer problems in
7 this area without a much better public record to
8 create the decision.

9 So, we would urge you, in your
10 Resolution to call on the State to enact a
11 comprehensive investigation, but also to protect
12 ticketholders and to recognize that this has been
13 a failed experiment. By deregulating this area,
14 consumers and fans have been hurt. The State has
15 an opportunity to put things back right. But,
16 we'd also urge New York City to stay involved
17 because this is an issue where there's a lot of
18 special interest and your ability to get in here
19 and start asking some of these tough questions,
20 which you asked this morning, those are the
21 questions that need to be asked. We need somebody
22 to push for what the truth is behind these
23 questions. And, that, in the long run, is the
24 best guarantor of a good consumer outcome. So, we
25 applaud your interest in the area and would like

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2 to work with you in further refining the law that
3 you've proposed. Thanks very much.

4 LEOR ZAHAVE: Thank you very much.
5 My name is Leor Zahave from Admit One here in New
6 York City. Firstly, I'd like to apologize. I did
7 not come with any prepared statements. I did not
8 plan on testifying. I came because initially,
9 when I read the bill, I thought it was related
10 more to the primary market. But, after hearing a
11 lot of the conversation here today, as my wife
12 tends to tell me, I'm going to have a hard time
13 keeping my tongue because there were some comments
14 made that I thought I could perhaps shed some
15 light on from our perspective, as well.

16 So, first, if I could just for a
17 minute or two, give a little bit of a background
18 on the ticket industry in the City itself. You
19 know, back in the '30s, '40s and '50s, there was
20 very limited means of distribution for folks that
21 handled a lot of the venues here. So, oftentimes,
22 there were no ticket limits at all. Back then, a
23 person could walk up to the box office and buy
24 large amounts of tickets and there'd be nothing
25 that could stop the person from doing that.

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2 Additionally, a lot of the venues
3 would work with ticket resellers and give them
4 tickets on a consignment basis. Sorry about that.
5 So, over time, when technology started to present
6 itself to the ticket industry, companies like
7 Telecharge sprung about, which allowed people to
8 go to various locations and purchase tickets from
9 an electronic source that was directly hooked up
10 to the box office. There were phone call centers
11 that were developed. And, over time, there were
12 restrictions put on how many tickets a person
13 could buy.

14 So, and then, Ticketmaster came
15 about and other companies like Ticketmaster came
16 about, where they took it to the next level and
17 they started to use the internet for distribution.
18 So, while for years people used to be able to go
19 to a box office and buy tickets, today, every
20 single personal computer is a virtual box office.
21 And, when you start thinking of the amount of
22 people that live in the Tri-State area and you
23 take a look at the census and you take a look at
24 how many seats are in a particular venue and you
25 take a look at the fact that there's a ticket

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2 limit, even if you had a venue that had 20,000
3 seats and there was a four-ticket limit, you know,
4 if every single ticket was put on sale to the
5 public, which I don't know that that always is the
6 case, but, even if it were the case, there'd
7 really only be 5,000 people that could get
8 tickets.

9 I got to believe for some of these
10 larger events there's far greater than 5,000
11 people that will be attempting to get a ticket.
12 So, in one of the comments made earlier about how
13 you go online and the ticket sells out in a minute
14 or two, when you think about it, I would hope when
15 you think about it the way I just presented it,
16 it's a lot easier to understand why something can
17 sell out in either minutes or even seconds, in
18 some cases.

19 So, ever since the internet, the
20 ticket industry has really been at the forefront
21 of anybody who wants to pay attention to it. So,
22 back in 2007, when the folks in Albany were
23 talking about doing something to change the
24 industry and there was some debate about the free
25 market, whether or not you should lift the price

1
2 cap or not, there were plenty of people on both
3 sides of the table; those that would say by doing
4 that, you're giving a license for people to charge
5 whatever they want and, in some cases, they could
6 be charging prices that are astronomical. And,
7 there were those that would argue that, you know,
8 by doing that and allowing people to sell their
9 tickets, you're actually going to be putting more
10 tickets into the secondary, therefore, putting
11 pressure on prices and bringing it down.

12 Now, granted I am in the ticket
13 business. But, I will tell you that I think both
14 sides were right. There are going to be times
15 when there are going to be events that the prices
16 are going to go through the roof. But, there are
17 also going to be plenty of times where the prices
18 are going to come down.

19 Now, one of the key components of
20 the bill in 2007 was the fact that season
21 ticketholders were now given the right to do
22 whatever they wanted to do with their tickets.
23 And, by that I mean prior to that bill, if a-- and
24 I'll just use the Yankees as an example-- if the
25 Yankees issued someone a season ticket, that

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2 season ticketholder was not allowed to resell the
3 tickets. They were completely forbidden to do so.
4 So, there was also talk about the Yankees creating
5 an exchange that would allow a season ticketholder
6 to trade their seats if they chose.

7 So, one of the roundtable
8 discussions that took place in Albany was the
9 Yankees said that they would allow a season
10 ticketholder to do that on their site. But, when
11 the question was posed to them what if I wanted to
12 sell the ticket to my neighbor or a friend or
13 whomever, the response was not unless you do it on
14 our site. So, as that conversation opened up, I
15 think Albany and the rest of the elected officials
16 around the City and State, began to embrace the
17 fact that if a season ticketholder goes and buys a
18 ticket and pays for that ticket, it should be
19 their right to do what they want with that ticket
20 and sell it wherever they want to.

21 So, that was placed into the law.
22 Now, I'm sure everybody here's been reading about
23 the Mets and the Yankees and the fact that there
24 are some tickets that are priced very, very high
25 and, unfortunately, because of the economy plus

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2 the pricing that they set, there have been some
3 empty seats. I think some of the things that have
4 not been discussed is the fact that if you go to
5 many of the secondary sites, you will see a very
6 robust market where you can purchase tickets for
7 just about every single game far below the face
8 value of the tickets that were initially issued.

9 What would have happened if that
10 were not the case? If, in fact, the season
11 ticketholder would continue to be restricted, then
12 your only choice would be to buy the tickets from
13 the Stadium, from the primary source. That would
14 mean if you wanted to sit in a certain area, you'd
15 have to pay the only game in town that was
16 charging the tickets. You wouldn't have options.
17 You wouldn't have choices.

18 And, at the end of my testimony,
19 I'd be happy, by the way, to submit over the last
20 two years, we've done our own research to prove
21 that there are oftentimes on the secondary market
22 where you can purchase a ticket lower than you can
23 on the primary markets. We have taken screen
24 shots that are time-stamped of the various
25 secondary sites, as well as the primary sites to

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2 show that, in fact, a free market does have its
3 advantages; does create an opportunity where
4 there's competition; does create an opportunity
5 for a consumer to have more than one place to
6 purchase a ticket and also for a consumer to have
7 the ability to sell a ticket that they could not
8 either otherwise use because they just genuinely
9 can't attend or, even if it is that they want to
10 do it for a profit.

11 The season tickets today, as
12 everybody here is aware, are very expensive
13 relative to how they used to be. It's not an easy
14 thing for people to afford to do. I would say a
15 majority of the people that purchase season
16 tickets do so as fans, but ultimately they either
17 need help financially to continue to support the
18 team or they do become part of the system and say
19 you know what, I can keep a certain amount of
20 games and sell a certain other amount of tickets
21 and, therefore, help compensate me for the fact
22 that I was able to get the season tickets for the
23 whole season directly from the organization.

24 So, I realize that there's a lot of
25 folks that hear the Bruce Springsteen stories of

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2 the world; hear the Hannah Montana stories of the
3 world, and I know it perhaps is a sexier story.
4 But, the truth of the matter is anyone in this
5 room can leave this room now, go on to the
6 internet, go to any of the secondary sites, like
7 Stubhub, TicketsNow, TicketNetwork, any of these
8 sites that you just heard, go to either a primary
9 site or a team site and compare for yourselves.
10 Even though I'll provide the data, no one here has
11 to take this data alone and say that that's the
12 end result. You can take a look at it as you move
13 forward and see that it's ongoing.

14 My concern now with this year is
15 initially there's been talk about extending the
16 bill. And, I've spoken to some of the folks in
17 Albany. And, they have said that they feel that
18 there's not really enough data yet to support that
19 the secondary market has, in fact, helped
20 consumers. And, I believe that there are
21 organizations, up in Albany and here in the City,
22 that have either not had the time or the resources
23 to get around to doing so. Fortunately for us,
24 we've done that just so that we can help make our
25 case. But, I think this notion of giving

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2 consumers or individuals a restriction on when
3 they can start to resell a ticket is actually
4 going to have the same exact effect that was
5 taking place prior to the season ticketholder
6 having the right.

7 So now, just imagine, like I said
8 to you before, if fans did not have the right to
9 resell tickets, where the prices would be today.
10 In today's marketplace, even though there are
11 people that will sell a ticket within 48 hours
12 after it goes on sale, I think it's unfair for
13 everybody here to assume that that means that
14 those tickets are being sold for higher than the
15 primary market. So, if there's no competition in
16 the 48 hours, who's to say that the face value of
17 a ticket cannot be set at a very high price. And,
18 you know, who's going to be out there to compete
19 with that and offer something that is at a lesser
20 price? Again, I do want to emphasize and I don't
21 want to come across as if I'm saying that it's
22 always that way, because obviously there are times
23 when it is higher.

24 But, this morning tickets went on
25 sale for a John Legend, India Arie concert and

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2 there were tickets on sale on the primary this
3 morning. And, today was the general on-sale.
4 There were presales that led into the on-sale this
5 morning. So, and that's-- we'll get to that in a
6 moment. But, that's a common practice in the
7 industry where you have an official general on-
8 sale, but there's half a dozen pre-sales before
9 you get to the on-sale. So, much of the
10 inventory's already out into the marketplace. So
11 now, at the general on-sale today, there were
12 actually tickets on the secondary market that were
13 cheaper than the primary market. If there was a
14 48-hour waiting period, that could not be
15 something that a consumer could have a choice to
16 do. So, I continue to take the position that, you
17 know, the most important thing as far as I'm
18 concerned is for me, as a broker, and for
19 consumers as well to have the ability to have a
20 choice.

21 Now, there was also some discussion
22 regarding technology that was used. And, I think
23 that there is probably a unanimous consent on
24 either the primary, secondary or the, you know,
25 the government bodies that that's something that

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2 should be outlawed. When somebody uses something
3 that's being done in a manner that gives not just
4 an unfair advantage, but is potentially illegal, I
5 would imagine definitively unethical, to use those
6 sorts of things to give you that advantage, I
7 would think that that's something that should be
8 either a federal law, a city law or a state law.
9 And, from what I'm hearing today, it sounds like
10 the goal here is to make it that consumers have a
11 fair shot. I believe if you put some very strong
12 penalties in place for people that use those sorts
13 of technologies, hopefully that'll discourage
14 anybody from using that.

15 But, by restricting a consumer's
16 right to do what they want with a ticket that they
17 purchased that they've already paid for, all we're
18 doing when we do that is we're allowing whoever it
19 is that does have control of the tickets at that
20 point an unchecked pricing power. And, that has
21 always been my concern.

22 I also just want to throw out there
23 to you that, you know, today there's been a lot of
24 discussion about prices and how you want to get
25 the prices right and you want to price it to

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2 exactly where the demand it. I respectfully
3 disagree that that can ever be done from the
4 beginning. I think that that's a moving target.
5 When the Bruce Springsteen fiasco happened, prices
6 were very high that first day. Yet, leading into
7 the show at Nassau Coliseum the other day, you not
8 only could buy some tickets at slightly above
9 face, but there were actually some tickets on the
10 secondary market that were below face value.
11 These things happen all the time. They happen the
12 other way around, too, where there's no demand
13 initially and leading into an event, tickets might
14 go for two or three times the face value. I think
15 it's impossible for the primary or the secondary
16 market to guess correctly and have that price stay
17 that way.

18 So, again, to me, the emphasis
19 should be creating an environment where there's
20 always the ability to compete, where a consumer
21 has the chance and the opportunity to purchase
22 from more than one location. Sorry. I'm sorry.
23 One more thing.

24 CHAIRPERSON LEROY COMRIE: Go
25 ahead.

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2 LEOR ZAHAVE: I do want to also
3 state, I think one of the other underlying issues
4 from the artist's side, and this is just an
5 opinion, when you sell a ticket for a certain
6 price and then, you see it on the secondary market
7 for a far greater price, and if you're the artist,
8 I have to believe there's a sense of that's mine.
9 They shouldn't be doing that to my ticket. Or, I
10 should be the one getting all that money. And, to
11 me, I look at that the same way I look at somebody
12 who might own a stock and sell it at a certain
13 date and time at a price and then, six months
14 later, they see that Google's trading at four
15 times what they sold it at. And, they feel that
16 they made a mistake and they sold it too cheap.

17 These are things that are natural
18 feelings to have. But, it's certainly not
19 something that you can hold the marketplace liable
20 for or hold the person who did decide to purchase
21 the ticket, hold it or resell it or do whatever
22 they wanted to, liable for something that you
23 already had the ability to do. And, that I think
24 is, from the primary side, something that really
25 gets to folks, as evidenced by the Yankees

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2 starting really high, coming out of the gate with
3 the prices that they did, not realizing that the
4 potential backlash would create all this negative
5 press for them. So, there's a balancing act for
6 artists and venues and teams when they come up
7 with these prices. And, I realize they have to
8 take that into consideration. Now, I'm done.

9 CHAIRPERSON LEROY COMRIE: Okay.

10 Well, thank you. I appreciate the statements from
11 both entities. I really want to align myself,
12 primarily, with both of you in a regard. Clearly,
13 we need to do something to make sure that the
14 consumers have an equal and fair opportunity.
15 And, I kind of agree that the issue of reinstating
16 the 45% cap, I think is important. So, I would
17 ask you, has your business improved or diminished
18 since the cap was lifted?

19 LEOR ZAHAVE: Well, in 2007 to
20 2008, it was a good year. And, the last year,
21 towards the later part of last year and this year,
22 it's not quite as good, obviously, because of
23 economic conditions. But, I think--

24 CHAIRPERSON LEROY COMRIE:

25 [Interposing] Before 2007, your business was

1
2 consistent and you had the ability to do all of
3 the things that you talked about for--

4 LEOR ZAHAVE: [Interposing] No, we
5 actually did not.

6 CHAIRPERSON LEROY COMRIE: Right.

7 LEOR ZAHAVE: We were quite
8 restricted in what we could do.

9 CHAIRPERSON LEROY COMRIE: Right.

10 LEOR ZAHAVE: And, it was a very
11 different business model that we had to approach.
12 Ours was more of a high volume business model
13 because of the price caps.

14 CHAIRPERSON LEROY COMRIE: Right.

15 LEOR ZAHAVE: It was very, very
16 difficult to get by on that front, especially when
17 a customer calls you and you'd like to sell them
18 something that they're looking for, but you just
19 can't. Yet, they could go on to the internet and
20 go ahead and fill their order and now, you're
21 losing a customer 'cause they do want to purchase
22 a ticket. Something that you can't offer them
23 because of the caps and the price caps that you
24 might have. But, more importantly--

25 CHAIRPERSON LEROY COMRIE: So, you-

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2 - I'm sorry. I'm not clear. You can't offer them
3 the ticket because it's beyond their ability to
4 pay?

5 LEOR ZAHAVE: No, no, back before
6 the laws changed--

7 CHAIRPERSON LEROY COMRIE: Right.

8 LEOR ZAHAVE: -- there were
9 limitations as to what I would be allowed to
10 charge for a ticket.

11 CHAIRPERSON LEROY COMRIE: Right.

12 LEOR ZAHAVE: Oftentimes, the
13 ticket that the customer was looking for was just
14 out of reach of what I was allowed to charge. So,
15 those particular customers would have to go
16 elsewhere. If there was a customer that wanted a
17 ticket within the pricing that I was allowed to
18 charge, I was able to service them.

19 CHAIRPERSON LEROY COMRIE: Okay.

20 LEOR ZAHAVE: But, what has
21 happened now, which is surprising to some extent,
22 I'm actually able to purchase tickets now below
23 face, sell them below face oftentimes, and still
24 make a living. And, that could only happen
25 because season ticketholders now have the right to

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2 do that. So, there's significantly more inventory
3 in the marketplace. If you go to a Stubhub, let's
4 say, and see how many tickets and they'll tell you
5 how many tickets are there for a particular game,
6 you could have 25 or 35% of a venue for sale to
7 the public for a game that's within a few days
8 away, so the prices are very depressed. Where,
9 100, you know, \$150 face value ticket could be
10 trading right now for 20 or \$30.

11 CHAIRPERSON LEROY COMRIE: But,
12 now, I understand that on the seasonal games or
13 events that happen on multiple times. Well, like
14 the Beyonce concert, are you getting resales on
15 that?

16 LEOR ZAHAVE: Right now, the
17 Beyonce, at least for us, the Beyonce concert is
18 not that big a seller. And, also my agency, we
19 tend to do much more on the sporting side.

20 CHAIRPERSON LEROY COMRIE: Okay.

21 LEOR ZAHAVE: We do a little bit on
22 the theater and concert side.

23 CHAIRPERSON LEROY COMRIE: Okay.

24 LEOR ZAHAVE: So, perhaps we're not
25 as good an indicator for the concert business.

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CHAIRPERSON LEROY COMRIE: Okay.

LEOR ZAHAVE: But, currently, the demand is not too high for the Beyonce concert. But, there are plenty of concerts that we recently sold where we have sold them below face value and I don't know if Beyonce's tickets will remain above face value, because we are not experiencing significant demand for it.

CHAIRPERSON LEROY COMRIE: Right.

LEOR ZAHAVE: Whereas, some of the other concerts that were discussed here, there was significant demand initially, like the Springsteen concert--

CHAIRPERSON LEROY COMRIE: Right.

LEOR ZAHAVE: -- and a few other shows.

CHAIRPERSON LEROY COMRIE: So, like Jonas Brothers, they're--

LEOR ZAHAVE: [Interposing] There was significant demand there for Jonas Brothers, yes.

CHAIRPERSON LEROY COMRIE: And, you sold most of your product above face value.

LEOR ZAHAVE: I would imagine, and

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2 I don't have the numbers with me here, but I would
3 imagine most of the prices for Jonas Brothers
4 tickets were at above face value.

5 CHAIRPERSON LEROY COMRIE: Right,
6 right. And, just the 45% cap, you would not like
7 to see that reinstated.

8 LEOR ZAHAVE: I think the fairest
9 answer to that is this. A person is going to want
10 to procure a ticket and, if they can do it from a
11 licensed ticket broker, they will. And, if the
12 licensed ticket broker tells them sorry, I'm
13 prohibited from selling you a ticket above 45%
14 above the face value, they will go elsewhere and
15 they will purchase that ticket. So, what good
16 does that do a consumer when now you're putting
17 them in a position where they could potentially be
18 buying it from someplace where there's no recourse
19 if there's an issue.

20 CHAIRPERSON LEROY COMRIE: Right.

21 LEOR ZAHAVE: And, again, it's
22 perhaps because I'm a businessman, I feel that
23 pricing should be left to the consumer--

24 CHAIRPERSON LEROY COMRIE: Okay.

25 LEOR ZAHAVE: -- to decide whether

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they want to pay it for that ticket.

CHAIRPERSON LEROY COMRIE: Okay.

And, Mr. Bell, I understand you want to reinstitute the cap. You just heard what Mr. Zahave said. Do you have a reflection on that?

CHARLES BELL: You know, we believe that a cap of 45% still allows a ticketholder to get the fair price back that they paid for the ticket, plus significant markup, including, you know, the service fees that they had paid. So, we don't see how the individual ticketholder is disadvantaged by that, except, you know, to the extent that you need to distinguish between sort of the use value of a ticket and the investment value or the exchange value. In the sense that, when we talk about, you know, these are venues that are built with public tax dollars and extensive subsidies, if someone wants to buy a ticket to go to see the Yankees, that's one thing. But, to buy tickets to become the, you know, the equivalent of sort of a franchise to resell that for whatever the market will bear all year long and perhaps never even go to a single game. It's

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2 long established that you have people who will go
3 to box offices, who will buy tickets online,
4 really holding them for investment value rather
5 than use value.

6 And so, what we're saying is the
7 consumer and the ticket seeker deserves a fair
8 deal. And, if you take that as your starting
9 principle, the 45% cap is sort of the trigger
10 issue. It's sort of like saying hey, the State's
11 paying attention. It's not whatever the market
12 will bear. There's going to be some rules in this
13 marketplace.

14 CHAIRPERSON LEROY COMRIE: Right.

15 CHARLES BELL: And, the other rule
16 we'd really like to see is the thing that allows
17 tickets to leak out to the ticket brokers from the
18 box offices, from people who have friends within
19 the venues that somehow get tickets and get them
20 into the hands of the scalpers, that issue
21 absolutely needs to be addressed. So, I think
22 technology can play an element in the solution.
23 More public disclosure of the amount of the
24 tickets that are going on sale and the percent
25 that they're being offered could play an element

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2 in the solution. We've seen examples of where
3 artists took blocks of their tickets and diverted
4 them directly to the secondary market to try to
5 get, you know, with no disclosure to the fans.

6 So, there's a lot of issues
7 relating to enforcement, public oversight and
8 accountability that need to be addressed in this
9 space. And, we don't think, you know, no one has
10 produced evidence to really establish the benefits
11 to the consumer of repealing the cap. The best
12 study we have is one that goes back ten years. If
13 someone wants to produce an independent study that
14 shows that there are benefits, we'd be willing to
15 look at it. We're not just going to take the word
16 of industry sources saying sometimes tickets are
17 cheaper, so it's no big deal. The anecdotal
18 experience of tens of thousands of fans has been
19 actually the opposite and, multiplied by many,
20 many people.

21 So, we want to see more inquiry,
22 more investigation. And, in the absence of that,
23 we don't want to extend the field experiment at
24 the State level. And, we would be very open to
25 working with New York City to see what kind of

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2 protections you can put in place. As the number
3 one entertainment and cultural capital, we think
4 you should be number one in consumer protection,
5 as you so often are. So, thank you.

6 CHAIRPERSON LEROY COMRIE: Thank
7 you. Just one other question. You heard the
8 issue of, though, whether or not season
9 ticketholders could do their own resale, which
10 they couldn't do under the provisions before 2007.
11 Do you think that should be changed [crosstalk]?

12 CHARLES BELL: You know, I think
13 I'm not as familiar as I'd like to be with all the
14 rules that were in place before that was changed.
15 I think you need to balance the rights of someone
16 who can't go to a game, who needs to recover the
17 money they've paid for the season ticket, with the
18 rights of a fan who wants to see that game in an
19 affordable price.

20 CHAIRPERSON LEROY COMRIE: Um, hm.

21 CHARLES BELL: And, let's remember,
22 you know, we have a big distribution of incomes in
23 the United States. We have a lot of people who
24 can't afford to go to a Yankee game every week. A
25 lot of people that live in New York City will

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2 never get a crack at going if this is viewed as an
3 investment opportunity. It's whatever the market
4 will bear. It almost becomes the equivalent of a
5 taxi medallion that someone has a unlimited
6 franchise to resell their tickets all year long
7 and never go to a game. There are probably people
8 that are working the system like that. We need to
9 investigate this and find out. If that's just an
10 occasional thing, that's one thing. But, we would
11 like to see, you know, a little more deference to
12 the right of a fan or a ticket seeker to get
13 access to an affordable ticket.

14 CHAIRPERSON LEROY COMRIE: Okay.

15 And, thank you. And, Mr. Zahave, you made some
16 very interesting comments. I hope that, you know,
17 we can get the statistics to back up a lot of
18 things that you're saying.

19 LEOR ZAHAVE: Right here.

20 CHAIRPERSON LEROY COMRIE: Um, hm.

21 LEOR ZAHAVE: I do want to just
22 point out a few other things regarding the pricing
23 and the pre-selling of tickets. So, today, if you
24 want to buy a Giants or Jets, or let's focus on
25 the Giants, ticket in the new stadium, you have to

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buy what's called a personal seat license.

CHAIRPERSON LEROY COMRIE: Right.

LEOR ZAHAVE: They make you pay for this personal seat license over the course of the next year, year and a half. And, even while you're paying for that, they're not guaranteeing you that you're even going to get the ticket that you're paying for. What they are telling you is if the tickets are not available within the parameters that you're requesting, they'll refund you. Now, that PSL is basically a license for that seat. You still have to purchase that ticket on a game-to-game basis. This is one way that they're now taking and trying to take from season ticketholders the ability, or better yet, to charge them for the ability to do what they want with their tickets.

Additionally, if a Broadway show is going to open six months or a year from now, there are group agents where you can place orders before the tickets are ever on sale to the public. You're required to purchase a certain amount of tickets. In addition to that, they don't guarantee you what tickets you are going to get.

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2 But, you do get access to them before they go on
3 sale to the public.

4 And then, there are venues like
5 Jones Beach and PNC, where you can purchase,
6 through Live Nation, a package where, for a set
7 fee, you can reserve a certain chair for the
8 entire season. The problem is, you don't know how
9 many shows you're going to get. So, you really
10 don't know how much you're paying per ticket.
11 And, you get those seats before they go on sale to
12 the public. So, how are we going to create an
13 environment where people have, you know, the
14 ability to purchase a ticket in a competitive
15 environment when we're looking to restrict the
16 secondary from reselling a ticket? But, at the
17 same token, the primary has the ability of having
18 all these different presales and, you know,
19 ability to allow people to lock up tickets in
20 advance without giving them the ability to be
21 resold on the secondary.

22 I just wanted to point out that the
23 very same thing that we're potentially discussing
24 doing is already taking place on the primary
25 market.

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CHAIRPERSON LEROY COMRIE: Okay. I appreciate you opening up another can of worms on this issue. But--

LEOR ZAHAVE: Like my wife said, I can't hold my tongue.

CHAIRPERSON LEROY COMRIE: Well, you know, as you told me earlier, you went to Jamaica High School. So, I'm sure you've been investigating as well. So, as also an alum of Jamaica High School, I appreciate you being here. And, thank you for your insight.

LEOR ZAHAVE: No worries.

CHAIRPERSON LEROY COMRIE: Unfortunately, I have to close the meeting. I just want to point out that I want to thank my counsel--

LACEY CLARKE: Lacey.

CHAIRPERSON LEROY COMRIE: -- Lacey Clarke and Damien Butvick. It's been a strange morning. I'm sorry, Lacey. And, I wanted to announce my interns, but they all had to leave, 'cause I had Anastasia and also, Troy and Alvin were here. And, they were great interns with me this semester. I don't think everyone has met

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2 Reggie Thomas, my new Budget and Legislative
3 Director. He'll be talking to all of you about
4 the issues and analyst, Damien Butvick, for all of
5 his work on this issue. And, just like to say
6 hello to Thomas Veruggia [phonetic], past counsel,
7 who is visiting us today.

8 So, with that, I'll declare the
9 hearing closed. I want to thank you gentlemen for
10 being here. And, I look forward to talking with
11 you soon on this issue. Thank you. Thank you
12 very much. I want to thank all the people that
13 came and all the people that participated in
14 today's hearing. Thank you very much.

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C E R T I F I C A T E

I, DeeDee E. Tataseo certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature DeeDee E. Tataseo

Date June 10, 2009