

Testimony of Bryan Perez  
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House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations  
“In the Dark: Lack of Transparency in the Live Event Ticketing Industry”  
February 26, 2020

**I. Introduction**

Chair DeGette and Ranking Member Guthrie,

My name is Bryan Perez and I am the CEO of AXS Group LLC (“AXS”). AXS is a wholly-owned subsidiary of Anschutz Entertainment Group, Inc. (“AEG” or the “Company”), a leading sports and live entertainment company.

Thank you for inviting me to testify at today’s hearing examining policies and practices in the live event ticketing industry. I appreciate the opportunity to provide our perspective on an industry that impacts our valued customers and so many of your constituents.

I have been in the live entertainment business for over 20 years. Prior to AXS, I was the President of Digital, Ticketing, and Media at AEG. I was also formerly the Senior Vice President and GM of NBA Digital, and served as CEO of Live Nation’s Global Digital division, with prior positions at the NHL Dallas Stars and Madison Square Garden. I hold a JD/MBA from Stanford University and a BBA in Finance from the University of Texas at Austin.

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**II. Overview of AEG Business Segments**

Allow me to take this opportunity to explain the mission of AXS by putting my organization into the proper context through an overview of AEG’s various business segments and their functions. Headquartered in Los Angeles, California, AEG is a privately-held company that operates, domestically and internationally, across a number of segments within the sports and live entertainment industry, including:

- *AEG Real Estate*, which owns and develops world-class venues, including major sports venues, theaters, and entertainment districts like STAPLES Center, Microsoft Theatre, and L.A. LIVE;
- *AEG Sports*, which owns and operates the Los Angeles Kings of the National Hockey League (“NHL”), the Los Angeles Galaxy of Major League Soccer (“MLS”), and other professional sports franchises and high-profile sporting events;
- *AEG Presents*, which is dedicated to all aspects of live music performances, including producing and promoting global and regional concert tours, music and special events, and world-renowned festivals; and

- AXS, which is a global ticketing platform, offering best-in-class ticketing technology in a single platform to suit every client size and type, from small music clubs to the largest sports stadiums.

Since its creation in 1994, AEG, as a private company, has invested billions of its own capital into the creation and development of world-class, multi-purpose live entertainment venues and districts located in major urban markets throughout the United States as well as abroad. AEG has also delivered content for those venues through its investment in professional sports teams, its concert promotion business, and its festivals that all have drawn millions of visitors each year. In so doing, these venues and districts have dramatically lifted land values, created new jobs and tax revenues, and spurred additional private investment.

AEG also has a non-controlling ownership interest in *ASM Global*, which is the world's leading venue management and services company and operates, in part, under the brand *AEG Facilities*. Through its worldwide network of venues, portfolio of powerful sports and music brands, and its integrated entertainment districts, AEG entertains more than 100 million guests annually.

As noted above, AXS is a wholly-owned subsidiary of AEG. AXS provides ticketing technology, systems, and services for both primary and resale ticket marketplaces, and is the ticketing partner for over 300 premier venues, sports teams, and event organizers around the world, including AEG, The O2, STAPLES Center, T-Mobile Arena, Sprint Center, Tele2Arena, Red Rocks Amphitheatre, the Cleveland Cavaliers, Toyota Center, the Houston Rockets, NCAA Final Four, and the Las Vegas Golden Knights.

AXS does not own any tickets that it sells, rather AXS acts in an agency capacity for its clients that sell such live event tickets to their fans. The goal of AXS's clients (and therefore AXS) is to get tickets into the hands of real fans at prices that are not inflated by brokers or other third parties uninvested in the event or the fan experience.

As noted above, AEG's live-entertainment division is *AEG Presents*, which promotes concerts and tours as well as owns and operates live music clubs, theaters, and festivals. AEG, through *AEG Presents*, owns a majority interest in Elevate Tickets, LLC ("Elevate"), a ticketing technology enterprise that specializes in providing a web-based primary ticketing platform solution to music festival owners, operators, and producers. Elevate differs from AXS and other traditional ticketing companies in that Elevate does not operate as a consumer-facing brand or marketplace, rather Elevate's technology is incorporated into its client's unique, customer-facing, event-branded website for the supported music festival. For this reason, when using the term "ticketing platforms," I am referring to AXS and Elevate, collectively.

While AXS has numerous third-party clients, AEG and its related companies are also clients of AXS. For example, AXS provides ticketing services for a number of venues that are owned or managed by *AEG Real Estate*, *AEG Presents*, or *ASM Global*. In addition, AXS provides ticketing services for live music and other events that are promoted by *AEG Presents* and for certain professional sports teams and other sports events that are owned by *AEG Sports*.

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Simply put, AEG exists to deliver for fans high-quality entertainment for the best value in the best markets.

Relatedly, AXS and Elevate exist to put tickets in the hands of fans. My colleagues and I are in this business because we all love live events—and as fans, we want to put tickets to live events in the hands of other fans.

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### **III. The Committee’s November 21, 2019 Letter**

As you know, the Company has made two voluntary written responses and briefed Committee staff in response to the letter dated November 21, 2019 (the “Committee Letter”) in which the Committee requested information regarding the ticketing policies and practices of AEG and AXS. The Committee Letter asserts that consumers “face a host of troubling practices and trends in the ticketing industry,” pointing specifically to five key issues: 1) a lack of transparency related to limited ticket availability; 2) speculative tickets that harm unknowing consumers; 3) “white-label” ticket websites that employ practices designed to deceive consumers; 4) tickets that cannot be transferred or resold, limiting consumer options; and 5) high, hidden fees.

I would like to address each of these issues in turn:

#### 1) Brokers favor disclosure of ticket availability at the expense of consumers—

As a general matter, the Company favors transparency with respect to ticket availability, and in fact, that is one reason we developed interactive seat maps for the venues for which we sell tickets. Where a seat map is available, AXS and Elevate do indeed display the total number of seats for which tickets are available at the time that a consumer is viewing the map. Unfortunately, this positive step was immediately met with a troubling response from the resale community—notably, the practices of speculative mirroring (a site that mirrors not only our seating maps, but also copies literally every ticket listing we have) and artificial sell-outs (where a ticket reseller will scoop up all remaining tickets to make it seem as though there is higher demand)—both of which force consumers to pay higher prices.

We do not view transparency as to limited ticket availability as a fundamental problem. Rather, the problem confronting the overwhelming majority of consumers is that they feel they cannot obtain access to the seats they want. The culprit: brokers taking the seats consumers want. Unfortunately, sharing inventory levels will not fix that problem—not without addressing the problem of ticket brokers. In an April 2018 report, the Government Accountability Office (“GAO”) stated that many primary market stakeholders said disclosure of ticket availability would in fact help brokers by giving them information useful in buying tickets and setting resale prices.

However, to the extent that the Committee believes that greater transparency is nonetheless a worthy goal, there are a range of other considerations that militate against the industry being able to provide complete transparency at every stage of the consumer experience. Allow us to cite two such factors.

- First, disclosure of ticket availability would help brokers by giving them useful information about how many tickets they should purchase and what prices they should set in the secondary market to make the highest profit off of true fans. For example, when ticket availability is low, brokers know that they can increase the markup on tickets in the resale market. In its April 2018 report, the GAO acknowledged that brokers are already at a “competitive advantage” relative to consumers, as brokers use human and technical means to buy up tickets as soon as they are released.
- Second, information regarding ticket sales is proprietary and confidential business information that artists and venues seek to keep protected. For example, an artist may be expected to sell out a venue on the first day of sales but does not actually do so. Protecting that information from the public allows AEG to be a good partner to the client.

Finally, we would also like to correct a misimpression we have observed about “presales,” an increasingly common, but not well-understood marketing practice within the industry. The narrative that presales decrease availability of tickets to fans in the primary market is not accurate. When made, presales are often provided for the benefit of artist fan clubs and other groups that cater to fans, designed to ensure fans get the opportunity to buy tickets at the same price as available in the general on-sale. Presales are a critical component of how artists and teams manage their fan relationships. The presales do nothing to diminish supply; they merely transfer public demand from the general on-sale to an earlier sale.

Presales allow certain customers to purchase tickets before the general on-sale—but at the same, the initial face price is determined by the artist, not inflated resale prices. Presales are not intended to exclude certain segments among consumers. To the contrary, presales are intended to promote awareness of shows among consumers by harnessing the advertising and marketing capabilities of third-party entities such as radio stations, corporate sponsors, credit card companies, etc. In our experience, the number one reason fans miss events is because they were not aware of them in the first place. In other words, presales are a tool aimed at enabling more fans to learn about and attend shows than would otherwise be the case were presales not available to fans.

Further, there are extremely low barriers to the general public learning about the occurrence of presales, such as signing up for email updates through their preferred ticketing platform, venue, promoter, radio station, etc. Additionally, any consumer can typically obtain a presale code simply by running a search for the event and “presale code” on Google.

Presales are also an important tool for venues and promoters to sell tickets—which is their primary business objective. As noted above, venue owners have invested significant capital in the development and construction of sports and entertainment venues. Concert promoters deliver

events at their significant financial risk—often having to provide artists with substantial guarantees in advance. Allowing presales for the band itself and for marketing partners—which are willing to help sell tickets and invest in bringing events to these venues—is important to ensuring the financial viability of these ventures.

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2) AEG does not sell speculative tickets—

A “speculative ticket” is one that has either been put up for sale by someone who does not yet have the ticket in hand (perhaps because tickets to the event have not yet gone on sale), or lacks a contractual right to receive the ticket. Despite a somewhat catchy name, speculative ticketing is plain, old-fashioned fraud.

To be clear, AEG and its subsidiaries in their capacities as ticketing clients of AXS and Elevate (collectively, “AEG Clients”), AXS, and Elevate are not part of the problem. The Company—that is, AEG Clients, AXS, and Elevate—does not allow the sale of speculative tickets on our ticketing platforms. Unfortunately, as a Company, we know there are entities that scrape our entire site to create listings at inflated prices on their own sites, which is patently deceptive and results in fans paying more for tickets than otherwise necessary.

Bad actors responsible for Internet advertising, combined with speculative ticketing, drive fans to third-party websites to pay inflated prices before tickets have even gone on sale. As a result, fans are often left disappointed with their seats or without any seat at all. This also has created a lucrative business for resale sites. While illegal in some states, the practice is still widespread.

Ticket authentication and required detailed disclosure as to whether a ticket is speculative could mitigate the pervasiveness of this practice and deserves your consideration at the federal level. For example, the detailed disclosure should state that the ticket is not currently in the possession of the seller, may not be fulfilled, and the order may be cancelled. With this kind of robust disclosure, consumers would be far better informed both as to the nature of speculative ticketing and those who engage in it.

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3) AEG does not operate deceptive URL websites—

Deceptive URL websites, sometimes known as “white-label” sites, are pervasive and the scourge of the industry. These sites are not “white-label” at all; rather, they use the well-known name of a legitimate ticket source to lure unsuspecting consumers to click on their website after paying search engines to get them ranked higher in search results.

These misleading “white-label” websites use advertisements and websites to make customers think they are buying tickets from the original venue or event at face value. In reality, the customers are purchasing resale tickets at prices above face value. This problem is exacerbated

by the prevalence of consumers simply searching the Internet for ticket sources without first understanding that no formal affiliation to a venue, team, or artist may exist.

Elevate, AXS, Elevate and the AEG Clients do not work with, own, or operate any platform or website that makes any representation of affiliation or endorsement to a venue, team, or artist when in fact no formal affiliation or representation exists. AEG spends a significant amount of time and money in legal efforts to combat the deceptive sites purporting to be affiliated with AEG events. We support prohibitions on these sites and urge you to consider pursuing this outcome at the federal level.

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- 4) AXS and Elevate respect artists' decisions on the rare occasions that they choose limits on transferability, because they do so to benefit fans over brokers—

AXS and Elevate only limit transferability at the request of a particular artist or promoter. In our experience, artists or promoters choose to limit transferability very rarely, accounting for less than one percent (1%) of tickets sold on our ticketing platforms. When artists or promoters choose to limit transferability, they do it in order to benefit fans by keeping the price of tickets low. When transferability limitations are in place, artists can set below-market prices and ensure those prices benefit fans, not brokers looking to make a profit by charging market-clearing prices in the resale market. For example, an artist may request that fans not pay more than a certain dollar amount per ticket, which is much lower than the price the market will bear.

Without transferability limits, brokers would purchase all of those tickets and sell them for huge markups in the resale market. Transferability limits allow the artist's fans to actually obtain tickets for the lower amount set by the artist. According to a January 2016 New York State Attorney General's [report](#) entitled, *Obstructed View: What's Blocking New Yorkers from Getting Tickets*: Nontransferable paperless tickets "appear to be one of the few measures to have any clear effect in reducing the excessive prices charged on the secondary markets and increasing the odds of fans buying tickets at face value." NY State Office of the AG, 36. As we have seen time and again, on the rare occasions it is used, controlling transferability works.

As a practical matter, when transferability or resale is restricted for a particular event (as requested by the artist), consumers are notified of any such restrictions during the purchase process, either within the purchase flow or in a pop-up message available within the flow. This amounts to several such notifications. In our experience, customers have not generally complained about difficulty in locating limitations on the transfer or resale of tickets on our ticketing platforms.

Limiting transferability with digital tickets also helps to combat fraudulent tickets. PDFs can be copied multiple times and resold simultaneously on several sites. Digital tickets issued by authorized sources ensure that fans will get in the venue, ensuring that artists can foster their relationships with their fans. The ugly reality is that, without limits on transferability, brokers

would buy up most of the tickets in the primary market that are underpriced. Brokers are able to sell those tickets in the secondary market at huge mark-ups.

With that said, we recognize that for some events, like sports games, it is critical for consumers to have the ability to transfer tickets to games when they cannot go. Limiting transferability and resale may prevent fans from recouping their money if they cannot attend an event and cause further inconvenience for those groups of consumers who would be forced to arrive together to gain entry to the venue (rather than have their tickets transferred to them from the ticket purchaser in their group). That is why we allow our clients to choose whether to implement limits on transferability. AXS and Elevate provide clients with technology that allows them to place limitations on the transfer of tickets in order to provide clients with the opportunity to control the distribution of tickets to their fans in the manner they deem desirable.

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5) AXS's and Elevate's fees are reasonable and transparent—

Our Company provides a valuable service, allowing consumers around the world to purchase tickets to live events from their homes and venues to efficiently manage their events, provide customer and box office services, scan people into the venue, and provide auditable financial processes and records for their tenants and clients (none of which are provided by resale only sites). Ultimately, the ticketing platforms' clients retain the face value of the tickets, so ticketing platforms must charge some ancillary fees as compensation for the services they provide.

AXS's and Elevate's fee disclosure practices are consistent with the most transparent ticketing platforms in the marketplace. Ancillary ticket fees are disclosed immediately after the consumer selects a seat. Unlike some other ticketing platforms, the fees are disclosed before consumers enter their credit card information and check out, without requiring a log in, and in the same font as ticket prices.

As we will discuss below, AEG supports all-in pricing requirements so long as they are applied equally to all primary and secondary sellers. If just one seller or type of seller is required to move to all-in pricing, it would lose business to the other sellers who are permitted to disclose fees later in the transactions. For example, if only primary sellers are required to adopt all-in pricing, resellers will mark down the face value of their tickets and charge more for buyers' fees later in the transaction. This is a practice already utilized by the major resale sites.

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#### **IV. Policy Solutions**

AEG believes that there are readily-available policy solutions to some of the problems addressed above. In particular, AEG would like to offer some specific recommendations for action in two areas: (a) enforcement of the BOTS Act, and (b) enactment of all-in pricing by Congress.

a) The FTC and state attorneys general should prioritize BOTS Act enforcement—

Brokers attempting to buy and sell a large number of tickets at inflated prices often use bots to do so. Bots allow brokers to manipulate ticketing platforms so that the brokers can buy a large amount of tickets at once and gain a huge advantage over individual consumers. Bots are designed to buy up all the tickets in the primary market, meaning that the only place consumers can obtain tickets is the resale market, where tickets are often sold for substantially higher prices.

To combat this problem, Congress passed the Better Online Ticket Sales Act (“the BOTS Act”) in 2016. The BOTS Act criminalizes the use of bots to circumvent ticket purchasing limits and security measures put in place by ticketing platforms so that as many fans as possible can obtain tickets at reasonable prices. Under the statute, it is illegal to either sell or purchase tickets with the use of bots. The Federal Trade Commission (“FTC”) and state attorneys general are authorized to enforce the statute.

To date, AEG is not aware of any successful action brought by state attorneys general or the FTC pursuant to the BOTS Act. One way in which law enforcement authorities can get tickets into the hands of fans is to utilize already-existing enforcement tools, such as the BOTS Act and similar state statutes. The FTC and state attorneys general should make prosecuting the illegal use of bots an enforcement priority, using the laws already in place. This would diminish the incentives prevalent in the market to use bots in order to obtain tickets for events at the expense of real fans, driving those fans to the higher-priced resale market.

AEG would ask the Committee to remind the FTC and state attorneys general of the existing authority to prosecute a set of bad actors who are distorting the ticket market in a manner that effectively prices out real fans from seeing their favorite artists.

b) AEG is supportive of all-in pricing, as long as it is required for all ticket sellers—

AEG is also supportive of regulations that require all-in pricing both in the primary and secondary markets. All-in pricing benefits consumers, because it requires ticketing platforms to disclose the full price of the ticket, including fees and taxes, at the beginning of the purchase process. However, any regulatory scheme mandating all-in pricing must apply equally to all actors in the market, including both primary and secondary sellers. If some actors are not required to adopt all-in pricing, those who do adopt it will be placed at a great disadvantage.

To that end, all-in pricing will also only succeed if there is an enforcement effort aimed at non-compliant actors. These bad actors will continue hiding fees unless there are real consequences for doing so. Regulations requiring all-in pricing for everyone would protect consumers while promoting fair competition. As we have seen from our experience since the BOTS Act was enacted into law, enforcement is the key to ensuring a fair marketplace.

## **V. Conclusion**



Once again, thank you for the opportunity to testify before the Committee today. I look forward to answering your questions at the appropriate time. And as the Committee grapples with legislative solutions, AEG looks forward to being engaged in that process with you.

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