

103
PEARL JAM'S ANTITRUST COMPLAINT: QUESTIONS
ABOUT CONCERT, SPORTS, AND THEATER
TICKET HANDLING CHARGES AND OTHER
PRACTICES

Y 4.G 74/7:J 24

Pearl Jam's Antitrust Complaint: Ru...

HEARING
BEFORE THE
INFORMATION, JUSTICE, TRANSPORTATION,
AND AGRICULTURE SUBCOMMITTEE
OF THE
COMMITTEE ON
GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JUNE 30, 1994

Printed for the use of the Committee on Government Operations



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PEARL JAM'S ANTITRUST COMPLAINT: QUESTIONS ABOUT CONCERT, SPORTS, AND THEATER TICKET HANDLING CHARGES AND OTHER PRACTICES

THURSDAY, JUNE 30, 1994

HOUSE OF REPRESENTATIVES,
INFORMATION, JUSTICE, TRANSPORTATION,
AND AGRICULTURE SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9 a.m., in room 2154, Rayburn House Office Building, Hon. Gary A. Condit (chairman of the subcommittee) presiding.

Present: Representatives Gary A. Condit, Major R. Owens, Karen L. Thurman, Lynn C. Woolsey, Bart Stupak, Craig Thomas, and Stephen Horn.

Also present: Representative Collin C. Peterson.

Staff present: John Edgell, professional staff member; Aurora Ogg, clerk; and Diane M. Major, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN CONDIT

Mr. CONDIT. The subcommittee will come to order. The House Government Operations Subcommittee on Information, Justice, Transportation, and Agriculture has investigative and oversight responsibilities over certain Federal Government agencies.

Our hearing this morning, Pearl Jam's antitrust complaint, questions about concert, sports, and theater ticket handling charges and other practices, falls within our jurisdiction over the Justice Department and oversight of antitrust matters.

A 1991 decision by the Antitrust Division of the Justice Department allowed Ticketmaster to acquire its leading competitor, Ticketron. This calls into question the process for antitrust mergers. We will be asking the Justice Department to explain this process at a future date.

We have formally requested documents relating to this merger in a letter to Attorney General Reno and to the Assistant Attorney General, Mrs. Bingaman. The subcommittee intends to pursue this matter.

Most Americans would not be expected to spend a great amount of time thinking about legal technicalities involving antitrust issues. But they do understand the harmful effects of monopolies in the marketplace.

The America free enterprise system thrives on a competitive marketplace. The consumer suffers when there is no competition. Monopolies fly in the face of what America is all about. That is the foundation of effective antitrust policy. And almost every American consumer has something at stake.

That is what this hearing is all about: Is there a monopoly in the ticket distribution industry? In short, who is there to protect consumers?

Any consumer who has bought a ticket to a sports event, a concert, or a theater show and has had to pay \$5 to \$8 per ticket just for handling charges, I know a little bit about this myself. Is the ticket distribution industry for the consumer's convenience or is it a cartel? We need to investigate the serious allegations made against Ticketmaster. And we intend to have a full and fair review of the charges.

No one will dispute that Ticketmaster is good at what they do. They are. In fact, it is clear that Ticketmaster has been able to eliminate its competition because it is very, very good at what it does. No one disputes the convenience of Ticketmaster's services. Ticketmaster is a well-run, professional company that provides a needed service to consumers and performers.

The key question is whether recent contractual agreements between Ticketmaster and most major stadiums and concert promoters have violated Federal antitrust law. This hearing follows a legal brief filed by Pearl Jam—a Seattle, WA-based alternative rock band—with the Justice Department to investigate alleged antitrust violations of Ticketmaster, a national ticket distribution company.

The Justice Department has announced a formal investigation of Ticketmaster and the ticket distribution industry. This subcommittee has a responsibility to pursue an issue that touches the ordinary daily lives of millions of consumers. The subcommittee intends to offer an opportunity for all sides to air their views.

We are honored to have representatives of both Pearl Jam and Ticketmaster, together with other respected members of the music industry here with us today.

Since the Justice Department is at an early stage in its investigation, they will not appear today. The subcommittee expects to hear from the Justice Department at a later date.

We are honored to have a number of witnesses willing to tell it like it is from their perspective. Some of them may have put their careers at some level of risk by testifying today. We are grateful for their cooperation.

Having said all this, we will get to those witnesses as quick as we can, but I must first allow the subcommittee members to make any opening statements that they may want to make. We are honored today to have the distinguished chairman of the full committee here with us today, Mr. John Conyers.

Mr. Chairman, do you have any statement you would like to make for the record?

Mr. CONYERS. Thank you very much, Chairman Condit. I wish to congratulate you and these artists who have dared to come forward. As a strong advocate of performing arts and with many close friends in the industry, this is an issue of extreme importance to

me, and we can see from the enthusiastic response to this hearing that this is an issue that is of great interest to the American people as well.

Question: Why is it when you personally go to the box office to buy sports or performing arts tickets, when you are right at the stadium or a concert hall, you have to pay a service charge to Ticketmaster for the honor of purchasing from them? What service do they provide that they can rationalize charging so much money for so little effort? My staff contacted the management of the Chene Park Amphitheater in Detroit, and they said that they routinely receive calls complaining about high handling charges and lack of other ways to buy tickets in most cases, and so I am delighted to join you here today.

Let me just leave with you this observation. When art is successful, it unavoidably becomes a business. The question, then, is whether artists have an inherent right to control the limits of their business and how it relates to the growth of their art. The answer, I am convinced, is that artists do have a right to that control. Thank you very much, Chairman Condit.

[The prepared statement of Mr. Conyers follows:]

STATEMENT OF JOHN CONYERS, JR., CHAIRMAN OF THE COMMITTEE ON
GOVERNMENT OPERATIONS
BEFORE THE
INFORMATION, JUSTICE, TRANSPORTATION AND AGRICULTURE
SUBCOMMITTEE, COMMITTEE ON GOVERNMENT OPERATIONS

HEARING ON PRACTICES WITHIN THE TICKET DISTRIBUTION INDUSTRY

JUNE 30, 1994

As a strong advocate of the performing arts, and with many close friends in the music industry, this issue is of extreme importance to me. And we can see from the enthusiastic response to this hearing that this is an issue that is of great interest to the American people. It is important to the minority communities as well, including African Americans, who have produced some of the world's best artists like Thelonious Monk, Aretha Franklin, Miles Davis, Janet Jackson and Wynton Marsalis. Yet many members of the minority community are excluded from the possibility of seeing high-quality artists because of outrageous ticket prices. It is important for young people also, most of whom are not rich, because they want to have access to these artists. A monopoly by middlemen must not stop the availability of culture to anyone outside the wealthiest in our society.

Why is it that even when you personally go out to the box office to buy sports or performing arts tickets, when you're right at a stadium or concert hall, you have to pay a service charge to Ticketmaster for the honor of purchasing from them? What service do they provide that they can rationalize charging so much money for so little effort?

My staff contacted the management at the Chene Park Amphitheater in Detroit, in my congressional district, and the Assistant General Manager said that he routinely handles ten calls a day complaining about high handling charges and the lack of other ways to buy tickets in most cases.

The American people see what is happening and they don't like it: Ticketmaster appears to be exploiting its exclusive contracts with major entertainment outlets, and the average consumer is being gouged with outrageous service fees. Consumers are demanding that we investigate these practices, and I'm glad the Justice Department is doing so. I look forward to hearing Pearl Jam and others as we get to the heart of this issue today.

Congratulations and thanks to Congressman Condit for organizing today's important hearing.

Mr. CONDIT. Thank you, Mr. Chairman. We have the ranking member on the Republican side, Mr. Thomas. Mr. Thomas, do you have a statement that you would like to make?

Mr. THOMAS. Yes, thank you, Mr. Chairman. I will be brief so we can get on with it. Before we begin today's hearing, let me just state at the outset that I believe as a general proposition that the market is an effective regulator from determining prices to selling one's product efficiently.

Clearly, there are instances, however, where a minimal competition exists and we should take a closer look at how to foster it, not just in the music industry but in other areas as well. Certainly, this is a more well-attended hearing than we usually have on this matter, so I am delighted for that. Unfortunately, the Clinton administration's Justice Department has chosen not to participate, and without the presence of the Justice Department it will be difficult to accomplish this task.

The subcommittee has oversight responsibility of the Department. We should evaluate the Antitrust Division and the guidelines the Division has used to review competitive effects of mergers and acquisitions.

As you are aware, two of the witnesses are presently involved in legal disputes. This matter should be left to the review of the Justice Department where it has been appropriately filed. Today's testimony and questions should instead focus on how the Department interprets current antitrust laws and applies them. This is where the subcommittee's jurisdiction falls. This is the area that we should evaluate, and if we need to make improvements, so Mr. Chairman, thank you. I look forward to the testimony.

Mr. CONDIT. Thank you, Mr. Thomas. I will turn to my left to the subcommittee's musician, Mr. Peterson.

Mr. PETERSON. Thank you, Mr. Chairman. I have to admit that I, after some requests, tried to learn some Pearl Jam songs, but I think it is a little beyond me. They have great music, but I just couldn't work it into my repertoire. But I do appreciate your calling the hearing and allowing me to be with you today, and I commend these young folks for coming forward.

I am probably the only card-carrying member of the Federation of Musicians up at the table here today. I have never had the kind of problem they had. There weren't that many people clamoring to get in to see my performances, but anyway, I also found out that Mr. Ament's father is from Bluffton, just south of Bluffton in my district, about 30 miles from where I live, so it is a small world. Welcome to the committee. We appreciate your coming forward. Thank you, Mr. Chairman.

Mr. CONDIT. Thank you, Mr. Peterson.

Mrs. Thurman.

Mrs. THURMAN. I just wanted to welcome you all and look forward to your testimony and let you know that you have really put quite a stir on Capitol Hill today.

Mr. CONDIT. Mr. Stupak.

Mr. STUPAK. No statement.

Mr. CONDIT. Thank you very much. We have a practice of swearing all witnesses in. Would you gentlemen rise and raise your right hand.

[Witnesses sworn.]

Mr. CONDIT. OK, we got off to a great start, they said I do. Before we start, no bottles, no cans, no frisbees or beach balls are allowed at this hearing. Lighters are OK though. We are delighted to have both of you here. You have been very courageous in bringing your complaints forward and dealing with an issue that is important to the American people. I don't know the full extent you may have put your own careers at risk, and I think that is a very courageous thing for you to do. Hopefully, this will help consumers across this country.

We have Mr. Stone Gossard, are you the drummer?

Mr. GOSSARD. I play guitar.

Mr. CONDIT. Jeff.

Mr. GOSSARD. Plays bass.

Mr. CONDIT. OK. We appreciate you being here. Who would like to go first? Stone.

STATEMENT OF STONE GOSSARD, GUITARIST, PEARL JAM, SEATTLE, WA, ACCOMPANIED BY JEFF AMENT, BASSIST; KELLY CURTIS, MANAGER; AND MIKE MCGINLEY, BUSINESS MANAGER

Mr. GOSSARD. Yes, I would like to go first. I am not used to doing this sort of thing, so bear with me if it is a little rough.

Mr. Chairman and members of the subcommittee, my name is Stone Gossard. With me is Jeff Ament. I play guitar and Jeff plays bass, as you know. I would first like to thank you, Chairman Condit, for holding this hearing today. We, and I am sure many other Americans, feel very strongly about the subject of this hearing, and we appreciate your efforts to shed light on this matter.

All the members of Pearl Jam remember what it was like to be young and not to have a lot of money. Many Pearl Jam fans are teenagers who do not have the money to pay \$30 or more that is often charged for tickets today. Although given our popularity, we could undoubtedly continue to sell out our concerts with ticket prices at a premium level, we have made a conscious decision that we do not want to put the price of our concerts out of the reach of our fans.

For these reasons we have attempted to keep the ticket price to our concerts to a maximum of \$18. In addition, we have also tried to limit any service charges that may be imposed on the sale of those tickets to a reasonable percentage of the actual ticket price. We have also tried to ensure that any service charge will be separately identified from the price of the ticket itself so that fans know how much is being charged for the ticket and how much is being added on by the company selling the ticket.

Our efforts to try to keep our ticket prices at this level and to limit excessive service charges have put us at odds with Ticketmaster. Ticketmaster is a nationwide computerized ticket distribution service that has a virtual monopoly on the distribution of tickets to concerts in this country. It is today almost impossible for a band to do a tour of large arenas in major cities and not deal with Ticketmaster.

The reason that bands like Pearl Jam have to deal with Ticketmaster is because Ticketmaster has exclusive contracts with

most major venues, and almost all significant concert promoters in the United States. In essence, if you play at any of these venues or if you deal with any of these promoters, Ticketmaster will claim that its contracts give it the exclusive right to distribute tickets for your concert.

Ticketmaster's exclusive agreements with most of the suitable venues and promoters has left most bands without any meaningful alternative for distributing tickets. This absence of any alternative, in turn, gives Ticketmaster the power to exercise excessive control. The result for our fans has been higher service charges, meaning effectively that they pay higher prices for their tickets.

To understand how Ticketmaster found itself in this position of power requires a brief description of the structure of our business. When Pearl Jam makes arrangements to go on tour, we act through an agent. Our agent will then enter into an agreement with a promoter for a particular show or shows. The promoter in turn will enter into an agreement with a venue. Typically, the venue, the promoter or both will have exclusive agreements with Ticketmaster.

It is well known in our industry that some portion of the service charges Ticketmaster collects on its sale of tickets is distributed back to the promoters and the venues. It is this incestuous relationship—and the lack of any national competition for Ticketmaster—that has created the situation we are dealing with today. The service fee, which in concept should be nothing more than a handling charge for purchasing tickets, has thus become a source of additional revenue, not only for Ticketmaster, but for the promoters and the venues.

In at least one instance, Ticketmaster's service fee has reportedly gone as high as \$15 a ticket. Bands like Pearl Jam by contrast receive no part of the service charges collected by Ticketmaster, and let me make it quite clear that Pearl Jam seeks no portion of those service charges.

As a result, our band, which is concerned about keeping the price of its tickets low, will almost always be in conflict with Ticketmaster which has every incentive to try to find ways to increase the price of the ticket itself.

The written statement we have submitted to you today contains many examples of how Ticketmaster has used its power to interfere with or to stop our efforts to keep the price of our tickets low. I refer you to that statement for details.

Since we brought Ticketmaster's conduct to the attention of the Justice Department almost 2 months ago, public support for us and more generally for our efforts to reduce ticket prices has been overwhelming. Although our success as a band gives us a degree of power to stand up to Ticketmaster, we are not simply crusading for some abstract cause at the spur of the moment. This is business as usual for this band.

For over 10 years Jeff and I always made it a point to try to ensure low prices for our tickets, the T-shirts and everything else associated with the various bands we played in. We, in fact, recently did a show in Atlanta that any radio station who wanted to could broadcast for free. Jeff, in particular, has always been an advocate

of keeping things affordable and making sure our audience has access to our music.

Jeff grew up in Big Sandy, MT, and survived on a very limited music budget. We have had many conversations regarding the importance of music to his spiritual development and survival. There is too much great music out there to be limited to just a few because of a ridiculously high ticket price. Anyone who has worked with us knows that this has always been an important concern of ours.

Our interest is really quite narrow. We simply have a different philosophy than Ticketmaster about how and at what prices tickets to our concerts should be sold. We can't insist that Ticketmaster do business on our terms, but we do believe we should have the freedom to go elsewhere if Ticketmaster is not prepared to negotiate terms that are acceptable to us.

As we learned in attempting to go on tour this summer, because of Ticketmaster's dominance of the industry, our only other option was to play nontraditional venues and use nonestablished promoters or promote our own shows. Using nontraditional venues and promoters would create a tremendous security risk for our fans if we are forced outside the network of established venues and promoters currently working major cities. We would have to seriously question whether we could consistently provide safe and secure concerts for our fans.

Ticketmaster's monopoly ensures that our only alternatives are unsafe, risky, and financially more complex. Mr. Chairman, this is really about choices. Fans can go from one music store to another to find the best deal on a CD, but they can't go anywhere but Ticketmaster for concert tickets. We are able to choose marketing strategies and how we work with Sony, our record label, as well as others in the business, but when it comes to tickets, we feel we have no fair choices.

The lack of competition is not conducive to free enterprise. Where is the incentive to give the consumer a quality product for a reasonable cost when you don't have to? Why does Ticketmaster charge a high service fee? Because they can. Something is vastly wrong with a system under which a ticket distribution company can dictate the markup on a price of a concert ticket, can prevent a band from using another less expensive approach to distributing tickets, and even effectively preclude a band from performing at a particular arena if it does not want to use Ticketmaster. This is also about knowing what you are paying for.

Service charges range from \$1 to \$15. That is not based on the value of the service the company performs, it is based on how much money they can get. None of the other companies once accused of being monopolies—phone companies, buses, whatever—are able to charge the public such ridiculous and random amounts.

In bringing Ticketmaster's conduct to the attention of the Department of Justice, Pearl Jam hoped that the government would agree with our view that Ticketmaster's anticompetitive business practices are illegal and would take steps to stop those practices from continuing. We believe that the Department of Justice is particularly well suited to deal with this matter because the problem

is national in scope and has broader ramifications than simply the price of tickets to a Pearl Jam concert.

We are encouraged by the Antitrust Division's investigation into those practices and we look forward to the outcome of that investigation and any enforcement action that may result. Congressional attention and support for this matter will, we hope, reinforce the Antitrust Division's efforts.

We feel Ticketmaster has in essence dug its own grave on this issue. It is unwilling to be in step with the times and to cooperate with a band whose business ideals are commendable, given the state of the world today. Just look at the tours planned for this summer. There are plenty of bands charging a lot for their tickets who seem to have no conflict with Ticketmaster's practices. In the scheme of things, Pearl Jam is a minute percentage of the overall concert revenues.

In closing, I would like to thank you for requesting that we bring these matters to the attention of the subcommittee. Jeff and I would now be pleased to respond to any questions you have. We would also like to thank all of our friends and fans and R.E.M., Aerosmith, and the Grateful Dead for showing support for us also.

[The prepared statement of Pearl Jam follows:]

STATEMENT OF PEARL JAM
TO THE INFORMATION, JUSTICE,
TRANSPORTATION AND AGRICULTURE SUBCOMMITTEE
OF THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Pearl Jam submits this statement in connection with the oral testimony before the sub-committee of Stone Gossard and Jeff Ament, two members of the band, on June 30, 1994.

As most or all of you are aware, in early May of this year, our attorneys at Sullivan & Cromwell filed a memorandum with the Antitrust Division of the Department of Justice in which we brought to the Government's attention certain conduct by Ticketmaster that we believe is unlawfully interfering with our freedom to determine the price and other terms on which tickets to our concerts will be sold. The high price of concert tickets -- especially the imposition of excessive service charges -- is a significant issue to us and we believe to the public generally. In this statement we will discuss the reasons why Pearl Jam is especially sensitive to the price of tickets to our concerts; describe some of the incidents that led us to bring Ticketmaster's conduct to the attention of the Justice Department; address the reasons why we believe Ticketmaster's business practices violate the antitrust laws and the consequences those business practices have on us, on our fans, and on others who purchase tickets to concerts; and finally, discuss the type of change we hope will occur

in this industry and how Government action might help bring that about.

Many of Pearl Jam's most loyal fans are teenagers who do not have the money to pay the \$50 or more that is often charged today for tickets to a popular concert. Although, given our popularity, we could undoubtedly continue to sell-out our concerts with ticket prices at that premium level, we have made a conscious decision that we do not want to put the price of our concerts out of the reach of many of our fans. Moreover, we do not want to be responsible for teenagers, who may be influenced by peer pressure to feel that they must see Pearl Jam perform, spending more money for that concert ticket than they can really afford. All of the members of Pearl Jam remember what it is like to not to have alot of money, and we recognize that a teenager's perceived need to see his or her favorite band in concert can often be overwhelming.

For these reasons, we have attempted to keep the ticket prices to our concerts to a maximum of \$18. We have also tried to limit any service charges that may be imposed on the sale of those tickets to 10 percent of the ticket price, and to ensure that any service charge will be separately identified from the price of the ticket itself so that fans know how much is being charged for the ticket and how much is being added on by the company selling the ticket. As a result, even where a service charge is

imposed, our goal is to make it so that no one will pay more than \$20 to see a Pearl Jam concert.

Our efforts to try to try to keep prices for tickets to our concerts to this low level and to limit the possibility of excessive service charge mark-ups have put us at odds with Ticketmaster. Ticketmaster is a nationwide computerized ticket distribution service that has a virtual monopoly on the distribution of tickets to concerts in this country. It has been no secret that since Ticketmaster acquired Ticketron, the only other nationwide computer ticket service, service charges have been on the rise. It is today virtually impossible for a band to do a tour of large arenas or other significant venues in major cities and not deal with Ticketmaster.

The reason that a band like Pearl Jam has been required to deal with Ticketmaster is because Ticketmaster has exclusive contracts with most major venues for concerts and with almost all significant promoters of concerts in the United States. In essence, if you play any of these venues or if you deal with these promoters, Ticketmaster will claim that its contracts give it the exclusive right to distribute tickets for your concert. This affords Ticketmaster tremendous power in this business.

By locking up all of the suitable venues and promoters with arrangements of this type, Ticketmaster has effectively thwarted competition and left most bands without

any meaningful alternative for distributing tickets. This absence of any alternative, in turn, gives Ticketmaster the power to exercise virtual control -- to the exclusion of the views of the band -- over the level of service charge imposed on tickets for that band's concert that are sold anywhere but at the box office. The result, for our fans, has been higher service charges, meaning effectively that they pay higher prices for their tickets. Often those service charges are buried in the overall price charged by Ticketmaster, so that the fan may not even know that a substantial portion of what he or she is paying is a Ticketmaster-imposed surcharge.

Now, some of you might wonder how Ticketmaster, seemingly a service organization performing the routine function of distributing tickets, managed to put itself in a position where it can exercise such a high degree of control over the pricing and distribution of concert tickets. To understand this requires a brief description of the structure of our business.

When Pearl Jam makes arrangements to go on tour, we act through an agent. Our agent will then enter into an agreement with a promotor for a particular show or shows. The promotor, in turn, will enter into an agreement with the venue. And as indicated above, typically the venue, the promotor or both will have exclusive contracts with

Ticketmaster for the distribution of tickets for events in which they are involved.

It is well known in our industry that some portion of the service charges Ticketmaster collects on its sale of tickets is kicked back to the promoters and the venues. Thus, Ticketmaster's service charges are a source of additional revenue for venues and promoters. It is in their interest, as well as in Ticketmaster's interest, to impose high service fees. The "service fee" -- which in concept should be nothing more than a handling charge for the convenience and cost associated with purchasing a ticket over the phone or at a remote location -- has thus become a source of additional revenue not only for Ticketmaster but for the promoters and venues.

As anyone who has read the papers this summer is undoubtedly aware, the Ticketmaster service charge has in at least one case been reported to have gone as high as \$15 per ticket. An informal survey of the service charges being imposed by Ticketmaster on the events currently being advertised in the Los Angeles area shows that they range from a low of \$3.50 for a ticket to an ice skating show at the Forum to \$6.25 for a ticket to see either ZZ Top or Phil Collins at the Forum or Janet Jackson at Irvine Meadows, to a high of \$7.25 for a ticket to see the Eagles at the Rose Bowl. On top of that, Ticketmaster imposes an additional charge of \$2.00 or more per order if the tickets are ordered

by phone.* By contrast, the service charge imposed on a ticket to the musical Sunset Boulevard purchased over the phone -- from a non-Ticketmaster service -- is only \$3.00, less than the lowest charge being imposed by Ticketmaster and less than half of the surcharge Ticketmaster imposes for a ticket to a ZZ Top, Janet Jackson or Phil Collins concert. There can be little question that if competition existed, service fees would be lower.**

Bands like Pearl Jam receive no part of the service charges collected by Ticketmaster. And let us make it quite clear that Pearl Jam seeks no portion of those service charges. As a result, a band like Pearl Jam, which is concerned about keeping the price of its tickets low, almost by necessity finds itself on the opposite side of Ticketmaster, which has every economic incentive to raise the price of the tickets it sells.

During its brief existence, Pearl Jam has had several confrontational encounters with Ticketmaster. The first occurred in 1992, in connection with the "Drop in the Park Show", a free concert Pearl Jam arranged in Seattle. Pearl Jam paid for the costs of staging the free concert --

* Attachment A summarizes the fees currently being charged by Ticketmaster for various events in the Los Angeles area.

** As another example, Smith Tix, in the State of Utah, where there is no other competing ticket service, imposes services charges ranging from \$1 to a maximum of \$2.65.

an amount in excess of \$125,000 -- but was required for security reasons to limit attendance to 30,000 fans and as a result had to distribute tickets. Ticketmaster refused to distribute tickets for this free concert for less than a \$1.50 per ticket service charge (a total of \$45,000), requiring us to make other arrangements with the City of Seattle to distribute tickets.

A series of run-ins with Ticketmaster during our last tour illustrates quite clearly the power that Ticketmaster wields and the risk that any band undertakes in attempting to utilize an alternative to Ticketmaster's distribution system. Last December, we had made arrangements with a local promotor in Seattle to perform at the Seattle Center Arena. A portion of the proceeds from this concert were to go to charity. We originally had an agreement with Ticketmaster under which they would distribute tickets for the concert and impose a service charge of \$3.25, of which \$1 would be donated by them to the charity, plus they would make an additional contribution from their revenues so that their total contribution would be \$20,000 if the concert sold out. Pearl Jam also agreed to contribute \$20,000 to the charity. At the last minute, just as tickets were about to go on sale, Ticketmaster reneged, and threatened not to sell tickets if it could not raise the service charge by \$1 per ticket to cover the amount of their contribution. After a tense impasse,

Ticketmaster finally relented and agreed to charge only \$3.25, but it limited its contribution to the \$1 per ticket portion of its undertaking and did not make the full contribution it had originally agreed to make.

After this, our run-ins with Ticketmaster became increasingly threatening. In Chicago last March, Ticketmaster insisted on imposing a \$3.75 service charge on top of the \$18 price of a ticket to our concerts. We negotiated with Ticketmaster's general manager in Chicago and obtained an agreement to identify that service charge separately from the actual price of the ticket. Then, just as tickets were to go on sale, Ticketmaster again reneged. It was necessary for us to threaten to perform at another venue before Ticketmaster backed down and agreed to sell tickets that separately disclosed its service charge. Even then, Ticketmaster told us that its concession only extended to our Chicago shows and we should not expect them to be willing to do it elsewhere.

Chicago was followed soon after by Detroit. In Detroit, we decided to try to bypass Ticketmaster by distributing tickets through our fan club and by a lottery system. We were informed that Ticketmaster threatened the promotor of this concert with a lawsuit for violating its exclusive Ticketmaster agreement by allowing this method of distribution to occur, and also temporarily disabled the

promotor's ticket machine so that it could not print tickets for the concert for that time.

In New York, where we played a show at the Paramount Theatre in April of this year, we tried to distribute some tickets over the radio. Using a city-wide promotion, tickets were sold through the Paramount Box office. Here again, we were informed that Ticketmaster threatened the Paramount's management with legal action for supposedly allowing us to evade Ticketmaster's exclusive rights.

While we were experimenting with these alternative distribution arrangements, Ticketmaster attempted to threaten and intimidate us. For example, at one point the person in charge of handling concert arrangements for us was told by Ticketmaster in essence that he had better watch himself and that if we didn't back off he would be run out of the business.

After the conclusion of our winter tour, we began to plan for a tour this summer. In attempting to arrange that tour, we made it clear that we would only perform if the service charge imposed on our tickets was limited to 10 percent and was separately disclosed. Ticketmaster responded by spreading the word to promoters that it viewed our efforts as a threat to its business and urged promoters to refuse to deal with Pearl Jam. For example, as we disclosed to the Justice Department, in March of this year,

Ben Liss of the North American Concert Promoters Association -- a group of all major promoters in North America -- sent a memorandum to the Association's members in which he referred to them as "brother racoons" and warned that:

"Ticketmaster has indicated to me that they will aggressively enforce their contracts with promoters and facilities. Ticketmaster's stance is that they have been loyal to their partners in this business and they hope & expect their partners will reciprocate."

A day later Mr. Liss sent the Association's members an "update" on the matter, in which he conveyed that "Fred" -- referring to Fred Rosen, the CEO of Ticketmaster - - "intends to take a very strong stand on the issue" and that Ticketmaster "will use all available remedies" to protect itself. He added that "[Ticketmaster] views the Pearl Jam issue as an all or nothing proposition, meaning that they will not agree to handle half of the available inventory on a show in any situation where a contract exists."*

Now what is wrong with Ticketmaster's business practices? On a purely practical level, its practices are a problem because they preclude bands like Pearl Jam from having access to any alternative method of distributing tickets with the consequence that our fans are forced to pay

* Copies of the memos are annexed as Exhibits B and C to this statement.

higher ticket prices. In our memorandum to the Justice Department, Sullivan & Cromwell explained why those practices should also be considered to be illegal.

As our memorandum to the Justice Department explains, Ticketmaster's exclusive arrangements with promoters and venues are unreasonable restraints of trade, and its use of those arrangements to prevent promoters and venues from dealing with Pearl Jam amounts to a group boycott, in violation of Section 1 of the Sherman Act. Ticketmaster is also a monopolist, having acquired and perpetuated that position through its acquisition of Ticketron and various other regional ticket services and the use of long term exclusive contracts. In acting to preclude Pearl Jam and other bands from distributing tickets to their own concerts other than through Ticketmaster, Ticketmaster is unlawfully exercising that monopoly power in violation of Section 2 of the Sherman Act.

Since we brought Ticketmaster's conduct to the attention of the Department of Justice almost two months ago, public support for us and more generally for efforts to reduce ticket prices has been overwhelming. Although our success as a band gives us a degree of power to try to stand up to Ticketmaster that newer and less established bands do not have, we do not consider ourselves to be crusaders. And while we recognize that the issues we have raised have implications that go beyond Pearl Jam, our interest is

really quite narrow. We simply have a different philosophy than Ticketmaster does about how and at what price tickets to our concerts should be sold. We do not want to force Ticketmaster to do business on our terms, but we believe we should have the freedom to go elsewhere if Ticketmaster is not prepared to negotiate terms that are acceptable to us. That is the essence of competition. As we learned in attempting to arrange a tour this summer, given the current state of Ticketmaster's dominance of the industry, that may well mean that we must play non-traditional venues and use non-established promoters or promote our own shows.

The level of the service charge is not the only problem that Pearl Jam faces in connection with the sale of tickets to its concerts. Beyond the excessive service charges there are the problems of ticket scalping, counterfeiting, and commercial advertising on tickets. For example, at some of our recent concerts, an informal poll of fans in the audience revealed that more than 40 percent of them bought their tickets from ticket brokers. At many of our concerts, we are experiencing a counterfeit ticket rate of about 2-1/2 - 3%. And at one recent concert in Boston, we learned that some of these counterfeit tickets had been sold to fans for \$250.

The problems of ticket scalping and counterfeiting are not new or unique to Pearl Jam concerts. There are, however, steps that can be taken to address those problems.

These include specific monitoring to ensure that when tickets to a concert go on sale to the public, none are held back for the benefit of ticket brokers. With respect to counterfeiting, it is possible to use ticket stock that is more difficult to copy. Ticketmaster, unfortunately, has been unwilling to address these concerns.

Pearl Jam believes that if Ticketmaster is unable or unwilling to provide the level of service that Pearl Jam believes is appropriate for the distribution of tickets to Pearl Jam concerts, then we should have the option to make arrangements to distribute tickets to our concerts through other means. That freedom of choice -- a basic principle of competition in this country -- does not effectively exist in the music industry today. Something is vastly wrong with a structure under which a ticket distribution service can dictate the mark-up on the price of a concert ticket, can prevent a band from using other, less expensive, methods of tickets, and can effectively preclude a band from performing at a particular arena if it does not accede to using Ticketmaster. The effect of this situation on ticket prices has not been subtle: prices paid by consumers -- the ordinary concert fans -- for tickets to see Pearl Jam or any other band in concert are higher than they would otherwise be if competition existed.

In bringing Ticketmaster's conduct to the attention to the Department of Justice, Pearl Jam hoped that

the Government would agree with our view that Ticketmaster's anticompetitive business practices are illegal and would take steps to stop those practices from continuing. We believe that the Department of Justice is particularly well suited to deal with this matter because the problem is national in scope and has broader ramifications than simply the price of tickets to a Pearl Jam concert. We are encouraged by the Antitrust Division's public confirmation that it is conducting an investigation into those practices and we look forward to the outcome of that investigation and hopefully to enforcement action that will serve to prevent these practices from continuing. Congressional attention and support for this matter will, we hope, reinforce the Antitrust Division's activities.

Exhibit A

PERFORMER/VENUE	TICKET PRICE	SERVICE CHARGE (PHONE)	SHIPPING CHARGE (PHONE)*	SERVICE CHARGE (OUTLET)	OTHER CHARGES
Eagles	\$80.00-	\$7.25	\$2.50	\$5.00	
Rose Bowl	35.00				
ZZ Top	\$35.00-	\$6.25	\$2.00	\$4.25	
Great Western Forum	23.50				
Janet Jackson	\$27.50	\$6.25	\$2.00	\$4.25	
Irvine Meadows					
Phil Collins	\$50.00-	\$6.25	\$2.00	\$4.25	
Great Western Forum	30.00				
Harry Connick Jr.	\$40.50-	\$6.25	\$2.00	\$4.25	
Irvine Meadows	22.50				
Bonnie Rait	\$66.50-	\$6.00	\$2.00	\$4.00	
Hollywood Bowl	21.50				
Santana	\$57.50-	\$5.75	\$2.00	\$4.00	
Greek Theatre	15.50				
John Mellencamp	\$45.00-	\$5.75	\$2.00	\$4.00	
Blockbuster Pavilion	17.50				
Steve Miller Band	\$60.00-	\$5.75	\$2.00	\$4.00	
Greek Theatre	18.50				
Forever Tango	\$35.00-	\$5.50	\$2.00	\$4.00	
Wilshire Theatre	17.00				
Tommy-The Who	\$60.00-	\$5.50	\$1.50	\$3.75	"Facility fee"
Universal Amphitheatre	15.00				\$2.50 per ticket
1994 Tour of World	\$45.00-	\$5.00	\$2.00	\$3.50	
Figure Skating Champs	30.00				
Great Western Forum					
Jesus Christ Superstar	\$45.00-	\$4.00	\$2.00	\$3.00	
Pasadena Civic	25.00				
Joffrey Ballet	\$55.00-	\$3.75	\$2.00	\$3.00	
Dorothy Chandler	15.00				
Baudido	\$32.00-	\$3.75	\$1.50	\$2.25	
Mark Taper Forum	28.00				
4th of July Celebration	\$25.00-	\$3.50	\$2.00	\$3.00	
Rose Bowl	13.00				

* In addition to the service charge imposed for telephone orders, Ticketmaster imposes an additional fee per order to cover "shipping and handling." The amount of this fee does not change with the number of tickets ordered.

EXHIBIT B

NORTH AMERICAN CONCERT PROMOTERS ASSOCIATION

March 24, 1994

TO ALL NACPA MEMBERS

Dear Friends:

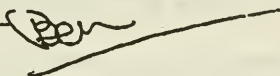
Obviously, spring training has begun and it's going to be a long season.

I alerted you last week about the concerns of your brother raccoons on Mcatloaf's national ad campaign. This week's topic is PEARL JAM.

PEARL JAM is putting out feelers once again to require promoters to bypass TicketMaster on their dates later this summer. TM has indicated to me they will aggressively enforce their contracts with promoters and facilities. TicketMaster's stance is that they have been loyal to their partners in this business and they hope & expect their partners will reciprocate. I do not need to remind you that loyalty in our industry is a valuable asset and that long-term relationships depend upon it.

I know you are very busy and I sincerely hope you are making great deals that will see you through your most successful season ever.

Best regards—



PS: Nick Gold (212/840-7800) is waiting to hear from you. Make your Nashville hotel reservations ASAP.

NORTH AMERICAN CONCERT PROMOTERS ASSOCIATION

March 25, 1994

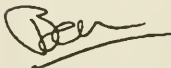
PEARL JAM TICKETING

This is an update on the Pearl Jam/Ticketmaster controversy.

Fred has indicated that he intends to take a very strong stand on this issue to protect Ticketmaster's existing contracts with promoters and facilities and, further, TM will use all available remedies to protect itself from outside third parties that attempt to interfere with those existing contracts. TM views the Pearl Jam issue as an all or nothing proposition, meaning they will not agree to handle half of the available inventory on a show in any situation where a contract exists.

If asked, you may wish to consider and cite this fact: you and/or your venue have an existing contract with TM which precludes you from contracting with others to distribute tickets. I urge you to be very careful about entering into a conflicting agreement which could expose you to a lawsuit.

I know all of you hope this matter is resolved amicably to everyone's satisfaction. In the interim, you may want to review your situation in preparation for an important decision that you may be asked to make next week.



Mr. CONDIT. Thank you, Mr. Gossard. Mr. Ament, do you have any comment you would like to make?

Mr. AMENT. No, I will just answer questions.

Mr. CONDIT. You will just answer questions, OK. We have heard, and this is for both of you if you want to respond, we have heard that Ticketmaster considers itself the victim in this matter. What do you think about that?

Mr. GOSSARD. Say that again, I am sorry.

Mr. CONDIT. Ticketmaster, we have heard, feels they are the victim in this matter. Do you have any response to that?

Mr. AMENT. Well, I think, I mean the victim from where we are coming from, is being a fan and being a person that doesn't have a lot of money to spend on tickets, and I think that is where the victim lies. I don't think we consider ourselves necessarily being a victim, either. I definitely don't think Ticketmaster is a victim.

Mr. CONDIT. I read in the L.A. Times last night that in an effort to keep the ticket prices down that the band forfeited \$2 million in fees. Is this true?

Mr. AMENT. I am not really sure how much money we forfeited. In a lot of cases the money at this point really isn't that important to us. We are trying to do things in a new and different way and a new approach to things. Just from a different perspective because that has never been our major goal. Our major goal has been to make great music together and a lot of levels we have come to that point.

Mr. GOSSARD. If the question is could we make more money going on tour, yes, we could. We could make a lot more money than we are making right now by going on tour.

Mr. CONDIT. I am not real familiar with the music industry. Our industry up here, we chat with each other from time to time and share horror stories. Have you heard from other performers on this issue? Are there other bands who are concerned about this? If so, are they individual performers? Could you share that with us?

Mr. AMENT. I think mainly Kelly Curtis, our manager, has been talking to a lot of different people. I know we have gotten a lot of support from Aerosmith, Grateful Dead, Garth Brooks, R.E.M., and Neil Young. It seems like when it actually became a public issue, it seemed like everybody came forward and actually supported us, and even more so than the artists, I think the public support has been intense. People that really don't have very much knowledge about our band or the kind of music that we play have been very supportive about it whether they are concert goers or they go to plays or opera or whatever, but it is actually really nice, you know.

Mr. CONDIT. Do you have contracts with your record company manager and agent and are those contracts exclusive?

Mr. AMENT. I think the only person that we have an actual contract with is our record company. Our agent and our manager and our soon-to-be with our merchandiser, too, we have just a handshake, it is people that we trust, and we talk and communicate on a daily basis and we kind of feel in a lot of ways that is the only contract that needs to exist.

Mr. CONDIT. Can you tell us how the ticket prices are set. Who sets the ticket price?

Mr. AMENT. The band does. We have meetings. We haven't had one in a while because we have all been kind of doing our own thing, but whether we are touring and when we are recording, we get together and talk about those things and actually before we went on tour last fall we sat around and decided that we never wanted the price of a ticket over the course of the next year or two to ever be over \$20, and that is how we came up with anywhere between \$16 and \$18 so when the service charge was tacked on that it would never be over \$20.

Mr. CONDIT. Do you adjust your fee to accommodate it not being over \$20?

Mr. AMENT. Actually, I think in order for us to break even or make money on the last couple of tours we had to set it at \$18, and so I think there were cases when the tickets were \$21 or whatever, but this summer we just decided that we didn't want the ticket prices to be over \$20.

Mr. CONDIT. To achieve that you work with the concert halls or stadiums or whatever. They receive a fee. You obviously have Ticketmaster, who gets their cut. Do you readjust your fee to get to that \$20 or is your expectation for the stadium and Ticketmaster to readjust their profit margin to get to that \$20 total?

Mr. AMENT. Well, I think we were willing to talk about that. Essentially what we did, how we came up with it, with the \$18 was that we figured out what our expenses were. In the previous 3 years touring, we actually lost a lot of money, and we decided that going into this we didn't want to get into a situation where we were losing money touring, and we have put on free shows. We did a huge show in Seattle where we actually put about \$125,000 or more into that show, and so in order to do those sorts of things you have to make a little bit of money to balance it out.

Mr. CONDIT. Why was your summer tour canceled?

Mr. AMENT. I don't know when the exact date was. Probably about 2½ months ago.

Mr. GOSSARD. Did you say why?

Mr. CONDIT. Yes, why.

Mr. GOSSARD. We didn't feel like we could coordinate—because of our dispute with Ticketmaster and feeling really the only way we could tour was to sort of go outside and try to do it on our own, given the amount of time we had and our feelings about security and whether we could actually put on a safe show consistently in these sort of—we would be in outdoor venues probably in fields and stuff, we just felt that it wasn't appropriate and we should deal with this issue first and focus on recording music.

Mr. CONDIT. So your dispute with Ticketmaster is the reason you canceled your tour?

Mr. GOSSARD. Yes.

Mr. CONDIT. I have two real quick questions because other Members want to ask questions and I don't want to take all the question time. Have you ever done a performance and did not use Ticketmaster?

Mr. AMENT. Yes, on this last spring tour there were actually two shows. There was a show in New York and a show in Detroit where we came up with two alternative ways. We actually distributed the particular seats in New York—actually, they were both through the

box offices, but we distributed through radio stations in New York and in Detroit we did it through a lottery system, and it was an incredible amount of work.

Mr. CONDIT. What was the price of the ticket?

Mr. AMENT. The prices were—I think they were \$18 in both cases.

Mr. CONDIT. Did you think it was a success or——

Mr. AMENT. I think it was a success, but like I said, it was a lot of work, and looking at those two situations we knew that doing something along those lines this summer would have been an intense amount of work.

Mr. CONDIT. Do you think Ticketmaster is entitled to a profit?

Mr. GOSSARD. I don't think that question matters, you know. I think that our main concern is are we entitled to use a different company other than Ticketmaster and right now so far we haven't been able to find an alternative that is viable that we feel is fair. If Ticketmaster runs a good business and they make good decisions, then they should make a profit, but, you know, just like any good business they have got to be smart about it, too.

Mr. CONDIT. OK. I appreciate your responding to my questions. You have been very candid, and I appreciate that. I am going to turn to the chairman of the full committee and ask if he has any questions at this time.

Mr. CONYERS. Thank you, Chairman Condit. I have one question about Detroit. When you were there you tried a lottery system. Could you just tell us how that worked out and whether there were any repercussions as a result of that, Jeff.

Mr. AMENT. Essentially, we set up an address where people could mail in requests to go to a concert. I think we got—it was over 600,000 letters for a show that I think the Masonic Temple held like 4,000 people or something like that, and we have pictures. It is pretty intense and actually Mike McGinley, he had the task of going through those 600,000 letters and actually picking them, and——

Mr. CONYERS. Sounds like a pretty good job and lots of work.

Mr. AMENT. It failed in a lot of ways just because it was putting a ridiculous amount of mail through the mail system.

Mr. CONYERS. Did Ticketmaster threaten the promoter of the concert as a result of your lottery effort, if you recall?

Mr. AMENT. I remember hearing something to that effect. I don't know if there is something in the submission or not, but—I am not really entirely clear on that, and if you wanted to talk to either one of these guys, they could probably let you in on that.

Mr. CONYERS. We will. Thank you very much. Thank you, Mr. Chairman.

Mr. CONDIT. Thank you, Mr. Chairman. Mr. Thomas.

Mr. THOMAS. Thank you, sir. Thank you for being here. I am interested in how you do this. For instance, if you were to play somewhere like Casper, WY, which is unlikely, I suppose.

Mr. GOSSARD. Not that unlikely.

Mr. AMENT. That was actually on our wish list.

Mr. THOMAS. Was it really? You need to get out there. Who do you contract with? Do you contract with the event center there?

How do you do that? Who do you contract with for this concert to make the arrangements?

Mr. AMENT. Well, essentially we will send our agent an angle on how we want to tour and a lot of my angle, and this hasn't always necessarily been like the whole group's angle has been to play smaller places, and so we will send that list to our agent, and our agent will contact—

Mr. THOMAS. But you don't contract with Ticketmaster, do you? The arrangement for selling the tickets is between the facility, what do you call it, a venue?

Mr. AMENT. Yes.

Mr. THOMAS. And Ticketmaster?

Mr. AMENT. Exactly.

Mr. GOSSARD. And our agent deals with a local promoter there or whoever, deals with a promoter and the promoter in turn deals with the venue itself, so it is sort of a chain of command sort of thing.

Mr. AMENT. Lots of middle people.

Mr. THOMAS. You could get lost in it, I suppose. There is a function to distribute and sell tickets which somebody has to pay for and do, isn't that true?

Who does it if Ticketmaster doesn't do it?

Mr. AMENT. Hopefully, somebody comes up with a different angle on it. I think if there is more than just one person providing that service, I think it is going to make all the services better. I think it is going to make Ticketmaster better, too, because I think it is going to show them a different angle, you know.

Mr. THOMAS. In one concert, let's say you are in Los Angeles for this concert, should more than one person be able to distribute those tickets for the same concert? Is that your point?

Mr. GOSSARD. That is the gist of the whole thing. We feel like there should be somebody else that could potentially distribute tickets and right now we don't feel that when our agent goes and sets up the shows with the different promoters and the different venues, you know, 90 percent, 95 percent of the time Ticketmaster has exclusive contracts with those venues and those promoters already, so already you have to sort of deal with Ticketmaster because of their contracts with the local—

Mr. THOMAS. So there is two things, as I understand. One is the exclusiveness of Ticketmaster for this concert. They are the only one that can do it, and you object to that. The other is, you said 95—

Mr. GOSSARD. I don't know if that number is correct, I am sorry.

Mr. THOMAS. It doesn't need to be exactly, but if you go to 100 places in the country, how many of them will have Ticketmaster as their exclusive agent roughly, 10 percent, 20 percent?

Mr. AMENT. You are playing major markets, I would say it is a really high percentage. If you are playing Spokane, WA, or Missoula, MT, or someplace like that you won't be dealing with Ticketmaster, but 80 percent of the bands don't play those places, so that is where you run into problems.

Mr. THOMAS. OK. So what, and this is general, you may not feel comfortable with it, what is it you would like to accomplish—what do you think the Government ought to do?

Mr. AMENT. To have an option. As a consumer going out to see a concert to actually go out and have a choice, you know, like a consumer has a choice to buy gasoline or a CD or whatever, people have different reasons. Some people go to the major chains because the CDs are cheaper, other people have, you know, a different agenda on where they buy their music, and they will support a local small one stop.

It would be great to have locally owned ticket agencies or another—and also another national ticket agency just to provide some different choices.

Mr. THOMAS. So Pearl Jam tickets in Spokane ought to be available through several outlets, that is your point?

Mr. AMENT. Yeah, that would be great.

Mr. THOMAS. Have you filed a lawsuit?

Mr. GOSSARD. No, I don't think we have.

Mr. THOMAS. The answer is no?

Mr. GOSSARD. No, we have not.

Mr. THOMAS. Thank you very much. I have enjoyed having you here.

Mr. CONDIT. Thank you, Mr. Thomas.

Mr. Peterson.

Mr. PETERSON. Thank you, Mr. Chairman. I know a little bit about the country side of the business, but I don't know much about the rock side. Apparently, what has happened is Ticketmaster has gone out and signed up all these bigger venues, and is that—are they requiring that there be an exclusive relationship, is that what is happening, that in order for Ticketmaster, for example, to deal with the bigger venues where you have 30, 40, 50,000 folks, that there is an exclusive relationship with Ticketmaster to handle those tickets; is that what the situation is?

Mr. GOSSARD. That is what we think the situation is. It is hard to sort of determine exactly what the situation is. We can't prove that they have exclusive agreements with a lot of these places, but that has been—in trying to find other alternatives, we have always been forced with, well, you can use Ticketmaster or you can basically try to do it someplace else. That has been our perception, that they have an exclusive agreement with—

Mr. PETERSON. So your agent is finding that this hall or say the Metro Dome in Minneapolis or whatever, that you can't play that unless you use Ticketmaster, that is basically what is happening?

Mr. GOSSARD. Exactly.

Mr. PETERSON. I am trying to figure out if there is some way around this. I ran into this problem when I was in the State Senate in Minnesota. The State Fair had a rule that you couldn't play within 200 miles of the State Fair in that year if you booked with them. We have this "We Fest" in Detroit Lakes, which I have been involved with and played at. Anyway, we couldn't get Willie Nelson and some other people to play because they had this rule, so I put a rider on the tax bill and changed it.

I got an editorial from the Minneapolis Tribune about my Willie Nelson amendment, so maybe we could do something like that here, Mr. Chairman. We could put some kind of rider on the budget bill. It is just curious to me why there wouldn't be some venues out there that would spring up that would sell their own tickets. For

example, of the "We Fest," we have 120,000 people who come to that event. We think they use Ticketmaster. Maybe that is just the country side of the business.

Do you know, is there a difference to the country side of the business and the rock side?

Mr. AMENT. I don't think so. I think maybe the difference is that that is in Detroit Lakes and maybe it is just a smaller community and probably it doesn't make as much business sense. I have no idea if Ticketmaster deals with that area or not, but—and I think we could actually go out and probably find our own venues and find our own places to play shows, but that would probably take us a year to set that up.

Mr. PETERSON. It is just too much work to set up for each community?

Mr. AMENT. Yes.

Mr. GOSSARD. You, basically, have to build the venue from the ground up. You have to put in the bathrooms, you have to hire the security, you have to do all these things and when you are not dealing with anyone that is normally sort of in the network of people that are established promoters and stuff like that, that is where you run into risk. Your local crew in any given show could be, you know, inept. You just don't know, and you are dealing with maybe 20, 30,000 people or whatever, and that is a big risk for us.

Mr. PETERSON. You should go play wedding dances every Saturday night. You never know what you are going to run into.

Just one other thing I was curious about. I had read in the paper before I listened to your songs and was trying to learn "Black and Alive" and a couple of the other songs—I am still working on them—that you were trying to only play in halls that were no bigger than 8,000 people or something. How does that relate to this particular circumstance—does Ticketmaster have those places tied up as well?

Mr. GOSSARD. That is a different issue. That is more of the band's personal feelings about, you know, what kind of clubs we want to play, and we have played bigger shows than 8,000 people, and I am sure we will in the future, but during a tour we definitely like to mix it up as far as—we definitely like more intimate shows and maybe we will come to a place and we will play three or four theater shows and whatever, and then we will maybe do one sort of bigger event, maybe in an outlying area or whatever. That is to keep us happy and the fans happy at the same time. We are usually happier in sort of more intimate environments, but we are also into playing big shows. It is just a matter of being able to choose and mix it up.

Mr. PETERSON. One more point. So you are not on tour now until this gets resolved, is that where you are at?

Mr. AMENT. Exactly.

Mr. PETERSON. OK. So now what happens if the Justice Department looks at this and decides that there is nothing wrong? You will decide that when the time happens?

Mr. GOSSARD. We will figure something out. We are not going to stop touring.

Mr. PETERSON. That is good to hear. I will have to come and hear one of your concerts when you get back on the road again. Thank you for being here.

Mr. CONDIT. Thank you, Mr. Peterson. Mr. Horn.

Mr. HORN. Thank you very much, Mr. Chairman. I have a number of questions that don't require lengthy answers, just yes or no. Do you believe contracts should be honored?

Mr. GOSSARD. Sure.

Mr. HORN. I take the answer is, yes, sure.

You mentioned in your answer to a previous question that you do have a contract with your record company and that it is exclusive; is that correct?

Mr. AMENT. It is, but then at the same time if we went to the record company and said—if I went to the record company and said I have my own project and I want to go somewhere else with it, I think if we sat down and talked to them about that, they would let us do that.

Mr. HORN. But right now it is an exclusive contract.

Mr. AMENT. With our band it is.

Mr. HORN. And it is their decision whether they will let you break that contract in essence, not your decision, unless you want to——

Mr. AMENT. It is our decision.

Mr. GOSSARD. We have never been in a contract dispute with Sony. They have worked with us on every level. We have a contract that we have to go through the process of making because that is what business is all about, but we have never gone to court or had any sort of disagreement that we couldn't resolve as people just working together, and but we do have an exclusive contract with Sony, a signed contract.

Mr. HORN. Of course, you mentioned your contract with your manager and your agent is a handshake.

Mr. GOSSARD. Yes.

Mr. HORN. That is a contract, you would agree?

Mr. GOSSARD. It is a contract in our minds. That is as good as we feel we need.

Mr. HORN. It would be a contract in the court's mind also, depending on who testified which way.

Mr. GOSSARD. OK.

Mr. HORN. That is an exclusive contract with your manager and your agent?

Mr. GOSSARD. No. A handshake can't be—I mean, I can't imagine that you could get from that that it would be an exclusive contract. It is a contract.

Mr. HORN. Well, what is the length and the duration of the contract?

Mr. GOSSARD. There isn't one, it is a handshake. It is however long we feel like working together.

Mr. HORN. In other words, tomorrow you could get rid of them?

Mr. GOSSARD. Absolutely.

Mr. HORN. You would claim your promoter and manager have no contract.

Mr. GOSSARD. Exactly.

Mr. HORN. Well, that must come as news to them because they probably think they do. Did you receive any advance against future sales from your record company?

Mr. GOSSARD. We have in the past. We didn't on this record.

Mr. HORN. OK, but you have in the past. Is that regarded as a kickback in the industry or what?

Mr. AMENT. I would say it is a loan.

Mr. GOSSARD. If anything, it is a loan. If they advance you money for a record, the way it is set up is that they advance you money and you make your record and, you know, then when the record sells you have to pay that back, so it is basically a loan.

Mr. HORN. Have you ever spoken directly to anyone from Ticketmaster?

Mr. GOSSARD. An employee of Ticketmaster?

Mr. HORN. Well, anyone in relation to this case from Ticketmaster.

Mr. GOSSARD. No.

Mr. HORN. I assume their employees, president, treasurer, whoever.

Mr. GOSSARD. No.

Mr. HORN. So you have had no discussions with them on this?

Mr. GOSSARD. I personally have not had any discussions with them.

Mr. HORN. Well, has any of your staff that is employed by handshake or contract?

Mr. GOSSARD. I don't know, I would have to ask them. Have we had any discussions? Yes, our manager has.

Mr. HORN. Could we identify the gentleman?

Mr. GOSSARD. Kelly Curtis.

Mr. HORN. That is your manager, and he has had discussions, even though you personally haven't had, but it is on your behalf?

Mr. GOSSARD. Sure.

Mr. HORN. Who, if anyone—is he your only person that speaks on your behalf or do you have a legal counsel and others—

Mr. AMENT. He is the main person that speaks in our behalf, and—yes.

Mr. HORN. Well, do you have any contracts with Ticketmaster that are outstanding anywhere?

Mr. GOSSARD. I wouldn't be able to answer that question.

Mr. HORN. Can your manager answer it?

Mr. CURTIS. No.

Mr. GOSSARD. No, we don't.

Mr. HORN. Has Ticketmaster ever refused to sell tickets to your concerts?

Mr. GOSSARD. I think this line of questioning is very strange because it seems like what does that really have to do with anything with the issue at hand here which is whether Ticketmaster is a monopoly. It doesn't have anything to do with our business or what our relationship is with our manager or our record company. It seems it is about whether Ticketmaster has a monopoly. I find your line of questioning strange in that sense.

Mr. HORN. Well, have they ever refused to sell tickets to your concerts?

Mr. GOSSARD. I don't know whether they have or not.

Mr. HORN. Can your staff answer it? You know, a monopoly is something—

Mr. GOSSARD. My staff has said they don't think so.

Mr. CONDIT. You are probably aware that we do have Ticketmaster coming up.

Mr. HORN. No, but I would like to know from their side, we have got this case in quotes "before us," which properly is probably before the Department of Justice. We are into antitrust. The question is what is a monopoly, how does a monopoly function?

You are claiming to be the victims of the monopoly. I am trying to get a feel for what activities alleged to have been done by the monopoly make you feel you are a victim.

Now, one would sure make me feel I am a victim if I wanted to sell tickets and they refused to sell tickets to my concert, and I take it the answer is they have never refused; is that correct?

Mr. AMENT. No, you are right.

Mr. HORN. You are right? They have never refused to sell tickets to your concert?

Mr. AMENT. If there is any information where there might have been some weird innocence that—it is in the submission that you have.

Mr. GOSSARD. You can read that.

Mr. HORN. OK. When you perform, who does the deal on behalf of the band? Is it your manager, and I assume the manager would be the equivalent of the promoter? Is that combined or is there a separate promoter?

Mr. AMENT. Well, if we are doing our own shows, like we did in Seattle in December, Kelly would have been the promoter, but normally we go through our agent, and our agent goes through a local promoter or a regional promoter.

Mr. GOSSARD. If you have any more business questions we can put some of our business people up here and you can ask them specifically.

Mr. HORN. Well, that is your discretion. You are the witness, they work for you, so you use your judgment when you would like them to reply. That is fine.

Mr. GOSSARD. I am using that judgment right now. If you have any more business questions, you can ask them.

Mr. HORN. Please have them sit with you. No use us turning around craning our necks. Let's just get it on the record. Now, I gather—

Mr. CONDIT. Mr. Horn, do you want these guys to play Long Beach or not?

Mr. HORN. What I want is a record here, and would the gentleman identify himself please that just joined you.

Mr. MCGINLEY. I am Mike McGinley. I am the band's business manager.

Mr. HORN. The band's business manager, OK. I don't understand how this works.

Mr. CONDIT. Excuse me, Mr. Horn, I apologize for interrupting you. We are going to have to swear this witness in if he begins to answer questions. I apologize to you.

Would you raise your right hand, please?

[Witness sworn.]

Mr. CONDIT. The record would indicate he answered in the affirmative. Would you please introduce yourself for the record.

Mr. MCGINLEY. I am Mike McGinley. I am the band's business manager.

Mr. HORN. Spell the last name.

Mr. MCGINLEY. M-C-G-I-N-L-E-Y.

Mr. CONDIT. Now, that is clear. Mr. Horn, you may proceed.

Mr. HORN. As I understand it, the Ticketmaster operates on behalf of a particular arena, building, whatever they call it, and they have a contract with them, and I guess my query to you in terms of your interaction, does that contract, in your judgment, prevent any securing of the band or anything or is that your exclusive decision as an artist?

I am just trying to get how this system works.

Mr. MCGINLEY. I don't understand your question.

Mr. HORN. Well, as I understand it, Ticketmaster has a—

Mr. MCGINLEY. I am sorry.

Mr. HORN. Let's take the Long Beach arena, it has been mentioned or let's say arena X in some city. We have a contract with Ticketmaster to sell the tickets that relate to events in that arena.

Mr. MCGINLEY. That is correct.

Mr. HORN. All right. As you look at it from your standpoint, is that simply to sell tickets or do they in any way relate to other aspects of your performance, such as securing the band or whatever?

Mr. MCGINLEY. Whether we go play a venue, Ticketmaster provides the service just to sell the tickets.

Mr. HORN. OK, nothing else, simply the tickets?

Mr. MCGINLEY. Simply the tickets.

Mr. HORN. Now, what type of arrangement do you basically have, then, with the arena besides Ticketmaster on the tickets or a merchandiser or anything else? Are those exclusives when you go to a city? Is there only one person you really can deal with or one entity?

Mr. MCGINLEY. There are a lot of different choices when a band goes on tour. They have to make certain decisions on what they want to do in given areas, and when they make certain decisions in many cities like, for example, if you want to play Manhattan, you have to play Madison Square Garden. If you want to play that level of venue, yes, there is no other place in Manhattan to play other than Madison Square Garden.

Mr. HORN. OK. Now, I understand from listening to the testimony it is the band leadership itself, the group's leadership that sets the ticket prices.

Mr. MCGINLEY. In the case of this band, the band sets the ticket prices.

Mr. HORN. Now, is there any service charge ever added when you do these outside of a Ticketmaster venue? I mean, do you have an additional service charge or is it just a flat fee they decide on and that covers all your expenses, whatever they are?

Mr. MCGINLEY. There is a cost of selling tickets, and no matter whoever sells the tickets, yes, there is a fee to sell tickets no matter how you do it. Somebody has got to pay to sell the tickets.

Mr. HORN. As I understand it, then, the basis of your dispute seems to be down to about 50 cents between what you want

Ticketmaster to charge versus what they claim their basic service charge is. Are we talking about a 50-cent difference here?

Mr. MCGINLEY. I don't know how you arrived at that figure.

Mr. HORN. Well, let's say an \$18 ticket and the band said that is what they would like to perform at and they seem to feel Ticketmaster is keeping them from that because they have a service charge that would ticket over \$20, and let's say an \$18 ticket has a \$3.50 service charge—

Mr. MCGINLEY. That is \$21.50, by—

Mr. HORN. That would ticket over.

Mr. MCGINLEY. By \$1.50.

Mr. GOSSARD. Our concern is whether Ticketmaster has a monopoly and whether we have viable choices to go out and sell tickets for a national tour in major cities by any other means, and right now we don't, so that seems to be the real issue here, not about what the final discrepancies in our particular arguments with Ticketmaster are about, our affairs with them or whatever. It is all about being able in the future for any band and anyone to be able to go and sell a ticket through a company that is going to treat them fair, and it seems strange that we are focusing on our business activities, our specific business activities rather than the bigger picture, which seems to be the important overriding issue.

Mr. MCGINLEY. If you go to the State of Utah there is an exclusive or just one ticket company in the State of Utah, and their service charges range from \$1 to \$2.65 maximum, which would be significantly less than Ticketmaster is charging.

Mr. HORN. Well, we will pursue it on the next round. We have other members of the committee who want to ask questions.

Mr. CONDIT. I would like to yield to Mrs. Thurman from Florida.

Mrs. THURMAN. Do you also get involved with the concessionaires as far as the selling of T-shirts, hats, posters, and booklets?

Mr. MCGINLEY. As with tickets, the band made a conscious decision to only charge \$18 for their T-shirts, and because of the fees that venues charge, if we couldn't lower that percentage, it would have been unprofitable to sell tickets, so we negotiated fees with most of the venues on the last tour where at least we could charge the \$18 for the T-shirts.

Mrs. THURMAN. Is there a monopoly in that?

Mr. MCGINLEY. The building has the right to set T-shirts. They can charge—you have to negotiate a fee with them.

Mrs. THURMAN. What do you think is a reasonable charge for a ticket sale?

Mr. MCGINLEY. To sell tickets?

Mrs. THURMAN. Yes.

Mr. MCGINLEY. Competition should determine that.

Mrs. THURMAN. So if there was competition and it actually could raise prices in some cases, what do we do?

Mr. GOSSARD. Then we are all screwed.

Mr. MCGINLEY. I think there is plenty of examples in the briefs that you have that show that there is a lot of ticket companies operating around the country that aren't charging \$3 and \$4, so—

Mrs. THURMAN. I just wonder what percentage people think that the parties involved ought to have. I live in a very rural part of Florida; very, very, rural part of Florida, and, my option of being

able to purchase a ticket might be through somebody like that since I can't get to one of the larger cities here there may or may not be two or three ticket services.

I don't live in Miami. I don't live in Tampa. I don't live in Jacksonville, and so for some of us where an organization has taken the time to set up the service it really provides a valuable service to us.

Mr. GOSSARD. We have never argued whether Ticketmaster can provide a good service or not. They can get tickets anywhere in the United States efficiently on some level.

Mrs. THURMAN. So in some cases they actually help some of your fans?

Mr. GOSSARD. I wouldn't—That has never been part of our—definitely.

Mrs. THURMAN. So your only issue is the contractual part of it between—

Mr. GOSSARD. Whether or not Ticketmaster is an illegal monopoly or not, that is what our main concern, because we feel that they are.

Mrs. THURMAN. Are there a lot of other ticket sellers out there? Is there a reason why they have got a monopoly or has this just evolved?

Mr. GOSSARD. I wouldn't be able to answer that question.

Mr. MCGINLEY. There is a whole—without getting into too much detail, I think pretty much what Ticketmaster has done is they have gone around the country and they have bought up all the local competition in all the major cities. I mean, you could—

Mrs. THURMAN. I am not sure how to respond to that, to be honest. They have just done exclusives within these places and not allowed other people in. Are there other people that have actually been in on these? Do you know?

Mr. MCGINLEY. I am sorry.

Mrs. THURMAN. Are there other people that have actually tried to get contracts in these buildings? Do we know?

Mr. GOSSARD. Has anyone ever tried to go up against Ticketmaster?

Mr. MCGINLEY. Not in the last 4 or 5 years, I don't think.

Mrs. THURMAN. OK. Good luck.

Mr. CONDIT. Mr. Stupak from Michigan.

Mr. STUPAK. Thank you, and welcome to the committee. Go back to 1991, Justice Department says it was OK for Ticketmaster to buy out Ticketron and in a way Ticketmaster sort of became the exclusive person or individual or entity to handle tickets. Did any of the groups back in 1991, any of the artists or musicians support Ticketmaster's application with the Justice Department to allow them to purchase? Do you know?

Mr. GOSSARD. What were we doing in 1991?

Mr. AMENT. I am not sure if there were bands who supported it. From my just general knowledge of a lot of bands, it is a bottom dollar thing. It is like however much money they can make regardless of what the service charge is, that is what they are interested in, and we have a different agenda when we tour.

Mr. GOSSARD. We have had that tour agenda for years and years and years, and I think the record shows that we have always been

concerned with keeping ticket prices low and doing things sort of at a grassroots level.

Mr. STUPAK. You know, I appreciate what you are trying to do, trying to keep the flow and again I come from a very rural, small district, large district geographically, but very rural. When you start getting into tickets \$30, \$40, \$50, \$60, basically you price out a lot of people, so I appreciate what you are trying to do.

I guess the point I am trying to make is what happened between 1991 when Justice Department—and I have to correct the gentleman from Wyoming where he said the Clinton administration. That was back in the Bush administration where they allowed this monopoly to develop, if you will. What happened between 1991 and 1994?

Have the prices, the service fees gone sky high? Have they stayed the same, have they stayed flat, do you know?

Mr. AMENT. It seems like particularly this summer if you look at the ticket prices, and it has been big news, the Eagles and Barbra Streisand and all those people, I think with the ticket prices going up I think the service charges have gone up, too.

Mr. MCGINLEY. Service charges have increased significantly since 1991.

Mr. STUPAK. In 1991 was there a percentage, be it 5 percent, 3 percent that a service charge was and has that service charge stayed the same or has the service charge, proportion of the service charge increased since 1991?

Mr. GOSSARD. There is no proportion. That is one of the problems we have. There is no designated proportion of the ticket price that Ticketmaster charges. I mean, it is a random or seemingly random amount for every ticket, having more to do with the marketplace. That is what it seems like at least.

Mr. STUPAK. So conceivably you are a hot band right now, so they can sell your tickets, so they could put out a higher service charge than they would for someone else who might be on the downside?

Mr. GOSSARD. That is why it is such a weird incident because we are a big selling band, but yet we are trying to do a lower ticket price than a lot of other bands so there is a very good opportunity for Ticketmaster to want to tack on as much money as they can, knowing that our tickets will sell for, you know, as much as \$50, \$100, you know, scalpers can get.

Mr. MCGINLEY. It is hard in a 10-minute discussion here to go into the whole history and research behind ticket pricing, et cetera. I mean, I could certainly make myself available and we certainly made all our staff available to the Justice Department to help you people research this, but in this 10-minute timeframe you really can't do it justice to explain to people and have people knowledgeable of what is really going on, so I guess that is kind of some of the, you know, reservedness in our questions—in our answers.

Mr. CONDIT. Mr. Stupak, may I interrupt you for a minute? There are some other questions other Members have. We are going to let them ask their questions, but with your comment would you agree if some Members wanted to submit written questions to you, you could respond to them in a little more detail?

Mr. MCGINLEY. Absolutely.

Mr. CONDIT. Mr. Stupak.

Mr. STUPAK. One more question, if I may. What if a show cancels or if for some reason it doesn't come off, the refund, hopefully, there is a refund to the consumers. Is there a service fee then? Is that service fee kept then by Ticketmaster or is the whole price refunded, if you know?

Mr. MCGINLEY. I believe recently Ticketmaster has refunded the service charge. Up to a point in time, I believe about 2 years ago they kept the service charge, and there was a court case, I believe, in Oregon or Seattle or somewhere when Michael Jackson canceled a show where Ticketmaster did not want to refund the service charge, but in the last several years they are definitely refunding service charges on canceled shows.

Mr. STUPAK. You testified earlier that you wanted or I read in your testimony you wanted the service charge to be printed on the ticket so people would know.

Mr. AMENT. Yes.

Mr. STUPAK. Is that one of the reasons why?

Mr. AMENT. That is part of our whole philosophy to educate people on what is going on, not just to—

Mr. MCGINLEY. People should know what they are paying for. I mean, we have product labeling, people should know what they are paying for.

Mr. GOSSARD. If there was natural competition, that is exactly the kind of thing that would keep prices down, if someone could see that every time they bought a Ticketmaster ticket they were adding \$4 on their ticket and somebody else was only adding \$2 on, that is what is going to create the kind of situation we are looking forward to in the future.

Mr. STUPAK. To your business manager, then, do any States right now require you to do that? I am from Michigan. I don't think we do. I don't think we put down every charge that is on that ticket, and I know Ticketmaster is there in there. Do you notice of any States—

Mr. MCGINLEY. I don't know the answer to that, but I know that in California because Ticketmaster was not printing or advertising ticket prices in most ads, especially in Los Angeles anymore because there was no place you could really go to buy a ticket for that price because they were not putting the service charge in the ads, and so they don't put ticket prices in ads anymore.

Mr. STUPAK. What about on the ticket stub, if I purchased a ticket for \$20, is it \$15, \$5 for handling or—

Mr. GOSSARD. It doesn't split it up.

Mr. MCGINLEY. That was one of the problems we had with Ticketmaster for a show in Chicago. They were insisting on an all-in price on the ticket and we want it broken out so the fans could really see what they were paying for the service charge.

Mr. STUPAK. Thank you. And thank you, Mr. Chairman.

Mr. CONDIT. If I might, since you have been on the service charge, I would just like to ask quickly, should handling charges be per order or based instead on per ticket.

Mr. MCGINLEY. If you are doing a mailing, there certainly is a charge to mail things. OK, on a per order basis so anybody that is

mailing an order can recover the cost of what it costs to mail tickets or whatever. I don't think that is unfair.

Mr. CONDIT. A family goes in and buys six, seven tickets, should they be charged per ticket for handling or should they be charged a unit price?

Mr. GOSSARD. The market, hopefully, should be able to figure that out, too. If there is natural competition, all those things will be sorted out.

Mr. CONDIT. Ms. Woolsey.

Ms. WOOLSEY. Thank you, Mr. Chairman. I have to tell you, I am sorry I wasn't here for my opening statement, so I want to say a little bit of my thoughts on this. First of all, I want you to know I think you are just darling guys. This has been great.

When my staff told me we were going to have this hearing, I have to tell you, I knew nothing about grunge. But I know a lot about the importance of fairness and equity, and I think you have raised some very important questions. This is just not an issue for your band, we are talking about sporting events, rock and roll fans all over the country, and theater fans. I think you have opened a lot of good questions for us to be talking about now. We have to determine carefully what we need to be doing about this and respond appropriately.

One thing for sure is that the most sought after ticket here is the ticket to consumer fairness. Because we all know that the music won't rock if the consumers get rolled. So what I want to ask you is something that kept confusing me as you were talking. Are you looking at being able to have the choice as a group of your ticket distributor or are you looking at the consumer having a choice?

The reason I ask is it worries me that if more than one distributor in an area is working with you, how do you protect from overselling? I am concerned about that.

Mr. GOSSARD. I am not sure I know exactly what you are asking. We would love choices for both the fans and ourselves. Ideally, we would like to have our choice as far as finding a ticket distribution company that we feel we can work with and, of course, we want the fans to enjoy a natural marketplace to determine how much a fan pays for their tickets so the checks and balances are sort of in place.

Ms. WOOLSEY. I understand that in the big picture, but when you get right down to the number of tickets and the number of people that can come in, how do you protect from dual ticketing and overselling?

Mr. AMENT. They used to have a system that was called communicating.

Mr. MCGINLEY. In 1994, with the sophistication of computers, it seems pretty easy to figure out how we can sell tickets at a venue. It is not that difficult, but once again, I don't know, the half-hour discussion that it would take to show you how to do it, that this is the appropriate place to do that.

Ms. WOOLSEY. I think I will do that, I will ask that question because I think it needs to—you don't want to put yourself in a place where consumers are getting ripped off from another direction. I would like to know why you were the first group to bring this to national attention.

Why do you think that you did that?

Mr. AMENT. I think that is the way we have always done things. I think in a lot of other levels, whether it be with our record company or the merchandising industry or whatever, I think the way that we have done things has changed the way people perceive doing things, and it just doesn't seem fair to us the way a lot of things are done in the music industry right now, and having been a fan and having been a consumer for many, many years, I don't want to become something that I despised as a kid, or something that I got upset over as a kid and a music fan, and so we are just trying to carry through with just our gut feelings on a lot of that stuff.

Mr. GOSSARD. I think we have been in other bands, too, and not so successful bands and playing music for a long time, and you certainly learn a lot. We have put out our own records, you know, on independent labels. Jeff has always done the art work. We have always been very hands on in that regard, so in doing that you start to really learn what the business sort of is about and I think that maybe we have just had our hands involved in it a little bit more than a lot of people so we have become aware of a lot of issues that other people do not have in their frame of reference.

Ms. WOOLSEY. I have to ask another question that has nothing to do with monopolies. What does Pearl Jam mean or does it have a meaning?

Mr. GOSSARD. I am not going to answer that question.

Mr. CONDIT. You guys can go silent if you would like. If you want to answer the question, it is fine as well.

Ms. WOOLSEY. OK, thank you very much.

Mr. CONDIT. We have done a round of questioning here and you guys have been really kind with your time, and we appreciate it very much. I do have to let Mr. Horn have another round of questioning. If you noticed, this thing appears a little lopsided. This side has got a few more people, so we want to give Mr. Horn a little more time, so indulge us for a few moments and he is aware that he can submit some questions in writing and you may want to say that if you don't want to respond to questions.

Mr. Horn.

Mr. HORN. Mr. McGinley, you are probably the proper one to answer some of these. They get a little technical, and I will be asking similar questions of all witnesses.

On a typical date for this group or any group with which you have been familiar in your own past, how many tickets really go on sale to the public versus the promoter holds, the band holds and so forth? What are we talking about 80 percent go on sale, 90 percent?

Mr. MCGINLEY. It is really hard to be specific because every situation is different, OK? Specifically, with Pearl Jam we hold a very limited number of seats, so most of the seats can go on sale to the general public. There are certain seats that need to be held to take care of certain needs that they have, but for the most part a great majority of the seats go on sale to the general public.

Mr. HORN. Pick a figure. What generally are we talking about?

Mr. MCGINLEY. It is tough because it depends on the size of the venue, but I would say 300 or 400 tickets would be held and everything else would go on sale to the general public.

Mr. HORN. A typical venue you would have how many seats?

Mr. MCGINLEY. 3,000 to 10,000.

Mr. HORN. Generally, you hold out about the same number.

Mr. MCGINLEY. Yes.

Mr. HORN. OK.

Mr. MCGINLEY. The smaller shows we will take a few less.

Mr. HORN. Now, do you usually use a local promoter or do you and your colleagues on the staff really handle most of the promotion no matter where you go?

Mr. MCGINLEY. Local promoters.

Mr. HORN. You get a local promoter. Did you play any events where you didn't use Ticketmaster? I heard some referred to that you didn't want to use Ticketmaster, but have you seen—

Mr. MCGINLEY. There were a couple of shows where we sold tickets through the box office.

Mr. HORN. I am told that in a lot of arenas, maybe 80 percent of the tickets are sold through the box office. What is your feeling on that?

Mr. MCGINLEY. My experience would be probably not, but I don't know.

Mr. HORN. What do you feel it is half and half, what?

Mr. MCGINLEY. One thing, there is no question or no answer to that question because depending on who the artist is and the size of the venue and how fast tickets sell, there are 10 different variables that will determine when and where and how tickets sell, so it is a difficult question to answer.

Mr. HORN. My bias as a consumer is, one, I don't like service charges and so I know what you are talking about, and two, I prefer to go to the box office because I always feel I am getting lousy seats when it is automated, so I want to see what is the makeup of the arena. Is the column right in front of my seat or whatever, and my understanding based on my staff's analysis of statements of Ticketmaster is they claim they only sell 20 percent of a venue's tickets and that the venue sells roughly 80 percent.

Mr. MCGINLEY. For concerts I would dispute that.

Mr. HORN. You would dispute it?

Mr. MCGINLEY. Absolutely. For Pearl Jam that is definitely not true. At the Los Angeles Forum I don't even think the box office is open for day-of-show sales. That could have changed, but I don't think so. I don't think they are open.

Mr. HORN. So your experience is that you mostly have had to deal not only with Ticketmaster, but with what other similar type operations? For instance, the Shubert organization.

Mr. MCGINLEY. I think that there may be three or four exceptions, but at every show we did on the last tour we used Ticketmaster. There is really no option.

Mr. HORN. For the major arenas you are saying?

Mr. MCGINLEY. For the major arenas or even in the major cities. In major cities in this country there is really no other option other than Ticketmaster.

Mr. HORN. Have you or anyone representing your group ever participated in the service charge revenue?

Mr. MCGINLEY. No.

Mr. HORN. And that would obviously include both Ticketmaster and nonTicketmaster venues?

Mr. MCGINLEY. There was an instance where a couple shows we did on the last tour, the Ticketmaster local affiliate randomly raised the service charge 25 cents. That 25 cents was rebated back to the band. We took the money and gave it to a local charity.

Mr. HORN. What venue was that?

Mr. MCGINLEY. Atlanta and Rochester, Fox Theater.

Mr. HORN. Did you ever ask Ticketmaster to increase its service charge?

Mr. MCGINLEY. No.

Mr. HORN. Were you ever playing in Seattle, December 1993?

Mr. MCGINLEY. Yes.

Mr. HORN. And you didn't ask them to increase the service charge?

Mr. MCGINLEY. There was a long, complicated negotiation that I think is set out in one of the briefs. I was not involved in that negotiation, but there would be a 15-minute story to explain the facts. I don't think after hearing that 15-minute story, or after reading the brief, you would determine or you would say that we asked Ticketmaster to raise the service charge, no way.

Mr. HORN. Do you believe organizations such as Ticketmaster, whether it be Shubert or Ticketron, when it was going, provide a valuable service?

Mr. MCGINLEY. Ticketmaster does provide a valuable service, yes.

Mr. HORN. How would you put a value on that? How does one value that?

Mr. MCGINLEY. I can't answer that question. I don't know.

Mr. HORN. The reason I ask is I looked at Ticketmaster's complete financial report for 1993. They have a strange year. The year ends in January 31, 1993, so it is that year I am looking at. They had income of \$172,003,000, and they had a net income, which I guess we could call profit, although I am not positive, we will ask them, of \$7.5 million.

Now, that meant that basically they had a profit of 14 cents per ticket. Would you regard that as unreasonable?

Mr. MCGINLEY. I haven't seen those figures. I would like to analyze them before commenting on it. I think there are a lot of people other than Ticketmaster with the system that Ticketmaster has set up that are participating that aren't reflected on that statement, but I can't comment on it. I haven't seen it. I think they are making more than 14 cents.

Mr. HORN. You accuse them of being a monopoly. A monopoly, if it is, can be very inefficient. Let's face it. A lot of charges cover a lot of costs, but just the way the numbers happen to work out when the staff went over it was 14 cents per ticket.

Now, did Ticketmaster ever threaten to sue you or other members of the organization?

Mr. MCGINLEY. I don't know. They have never directly threatened to sue me. I believe our attorneys were warned.

Ticketmaster's attorney did contact Sullivan and Cromwell in New York.

Mr. HORN. To your knowledge, did they ever threaten to sue any of the arenas or promoters with whom you were dealing because you were involved?

Mr. MCGINLEY. Say that again.

Mr. HORN. Did Ticketmaster ever threaten to sue any of the arenas in which you were seeking to operate or the local promoters or regional or national promoters with which you were affiliated in relation to any of the business of your particular group?

Mr. MCGINLEY. Not having been directly in on those phone calls, but there was definitely some very tense conversations between arenas that we have played and Ticketmaster officials, yes.

Mr. CONDIT. Mr. Horn—

Mr. MCGINLEY. I don't know if lawsuits were threatened.

Mr. CONDIT. Can you wrap this up in a few minutes? We have been at this for about 1½ hours.

Mr. HORN. I have about five questions to go.

Mr. CONDIT. Could you submit some of those in writing?

Mr. HORN. Well, let's just get them rapidly through here. It will save everybody a lot of time.

Mr. CONDIT. I would advise you, if you want to submit them in writing, just say so, the answers.

Mr. MCGINLEY. OK.

Mr. HORN. Well, it creates a problem on followup questions, so if you are willing to take followup questions to your submissions, fine, we can do that, realizing you are still under oath when you answer in writing.

Mr. AMENT. We still want to make sure that the other panel members get a chance to talk about this stuff.

Mr. HORN. We are here all day.

Mr. AMENT. They told us we were going to be here for an hour. Actually, I have to go to the bathroom, so I will be right back.

Mr. HORN. We can understand.

What are we talking about in terms of how much the band really makes in terms of profit on each concert? You are concerned with Ticketmaster's profit, it seems to me fair we get on the record what your profit is.

At an arena, in a stadium, at a field, in those three different settings, what are we talking about average profit?

Mr. MCGINLEY. It is an impossible question to answer because, once again, there are probably 10 different variables. I could sit down and have a 1-hour conversation with you about it, but we are not going to answer it here correctly in 1 minute.

Mr. HORN. Could you go back and reflect on it. I know you do big venues, little venues, medium-sized venues, what not, but can you give us a general average, because I think it is important if we have got a 14 cents per ticket profit here then what is the group's profit? Is this the pot calling the kettle black?

Mr. MCGINLEY. Depending on where you are playing and what city it is and the ticket price, there is a million, literally a million variables that would determine what the band makes. Honestly, there is not a real percentage I can give you.

Mr. CONDIT. Mr. Horn, once again, the gentleman has answered the question. If he says he doesn't know, he can't explain it, that is an answer, and you can follow up, so let's take that.

Mr. MCGINLEY. Let me give you for an example here OK, on the show the band did at the Paramount, they basically broke even in New York because of the cost of the venue. There were other shows where they made maybe 25, 30 percent of gross. It is all over the place.

Mr. HORN. Do answer for the record if you feel you can give a more substantive answer.

Now, let's get down to the nub of this because we are taking one service in relation to a particular venue that is very common, which is the ticket service. Do you believe you should be able to decide all of the services, all of the concessionaires in an arena, such as the food, beverage, signage, parking as well as ticketing?

Mr. MCGINLEY. Mr. Condit, I think in fairness to really answer your questions, I should write answers to your questions, and we should move on because this is—

Mr. HORN. Let me just ask two more then.

Mr. CONDIT. No, Mr. Horn, if you want to submit.

Mr. MCGINLEY. I would be more than happy to spend all the time you need.

Mr. CONDIT. He said he would submit his answers in writing. Would you agree to that?

Mr. HORN. It would take a yes or a no. Do you have a contractual or other relationship or are you talking currently to the Shuberts or Telecharge?

Mr. MCGINLEY. No.

Mr. HORN. Are you planning to go on a tour in the near future?

Mr. GOSSARD. We don't know.

Mr. CONDIT. Is that fine?

Mr. HORN. That is fine.

Mr. CONDIT. Thank you, Mr. Horn. That concludes today's first panel. We are not going to do another round of questioning, but don't leave yet, Stone. I want to invite you, if you are willing to do so, to stay at the hearing. We would love to have you stay, but let me just say when we got involved in this issue, I did not know very much and still don't about alternative music. I just want to say to both of you, to Stone and to Jeff, I am not a big alternative music fan, and I am not sure that any of the Members up here are, but you have represented yourself and your industry very well today.

You have been very kind with your time, and I think you have been very thoughtful. No matter how this turns out, you have done a great service to the subcommittee, and we appreciate your being here. Now, that endorsement may not help you with your fans, but I want you to know that you did a good job.

Mr. GOSSARD. The government's band, you mean?

Mr. CONDIT. The government's band. Thank you very much. We appreciate you being here. We have a seat for you if you want to take it. Jeff maybe had a good idea. Let's take a 5-minute recess.

[Recess taken.]

Mr. CONDIT. We are going to reconvene the hearing. I appreciate the moment of recess, and we are going to ask panel two to come

forward. Mr. Collins, Mr. Downs, Mr. Marsh, Mr. Morris, and Mr. Rascoff. Please stand and raise your right hand.

Excuse me, apparently there is still some out in the hall. Would you notify them in the back if they are back there or out in the hall that we are ready for panel two.

Mr. Marsh, Mr. Downs? Raise your right hand.

[Witnesses sworn.]

Mr. CONDIT. The record would indicate everyone answered in the affirmative. We are going to start with Mr. Collins. Mr. Collins is the manager of Aerosmith, and he is from Boston, and we appreciate Mr. Collins being here today. We appreciate your patience. We know you have been here all morning. If you have a written statement, this goes for anyone here. If you have a written statement and you want to submit it into the record, that will be done, and you can paraphrase your statements or if you feel more comfortable in reading your statements, you can do that as well. Mr. Collins.

STATEMENT OF TIM COLLINS, MANAGER, AEROSMITH, BOSTON, MA

Mr. COLLINS. Thank you. Mr. Chairman, members of the subcommittee, thank you for inviting me to testify here today. My name is Tim Collins. I am from Boston, MA, and I am the manager of Aerosmith, one of the world's most popular rock and roll bands. Please allow me to supply you with some quick background.

Aerosmith has sold over 50 million recordings, and we estimate that as many as 20 million fans have seen Aerosmith live in concert, most of those in the United States. Currently, they are in the midst of a very successful world tour from which I have just returned to testify here today.

The band and I are all concerned about the impact that Ticketmaster's monopoly is having on the entertainment industry. We view this as a very simple matter. You are either on the side of the fans and the artists or you are on the side of the middlemen who are in control of the American concert industry.

We recognize that Ticketmaster's monopoly provides a more efficient ticket ordering and distribution system than America had ever seen before. Its advanced systems have upgraded and supported the economic vitality of the concert business. But at a price.

Last week, I was with Aerosmith in Italy, where the band is currently on tour. We were talking about Ticketmaster and how it relates to our concert business. Steven Tyler, Aerosmith's lead singer, said to me: "Mussolini may have made the trains run on time, but not everyone could get a seat on that train." That is the problem that Aerosmith and I have with Ticketmaster.

Yes, they have an efficient and profitable system, but its monopolistic aspects are unfair and hurtful. It hurts the fans who pay service charges that inflate ticket prices an average of 15 percent, according to estimates.

It hurts younger, developing artists who find that tickets to smaller clubs where they learn their craft are subject to surcharges averaging as much as 25 percent, according to estimates in the Boston Globe.

It hurts the music industry by encouraging scalping and other forms of profiteering, such as withholding large blocks of tickets for resale by sometimes disreputable elements.

Ticketmaster's monopoly controls access to between 85 and 90 percent of the tickets sold in the Nation's major music performance venues, covering 42 States.

On our current "Get A Grip" tour, Aerosmith will sell some 2 million tickets. Most of those tickets will be sold through Ticketmaster. Not because we want to, but because we have to, as a result of Ticketmaster's exclusive and unregulated agreements with promoters and venues. Ticketmaster is the only game in town for artists and fans.

Over the years, we have heard a lot of stories from Aerosmith fans who slept all night on hard pavements outside box offices waiting for them to open in the morning. Even the first kids in line were unable to get the best seats because Ticketmaster's telephone sales commonly begin hours, if not days, before box offices open.

Later we found that some of these seats had been bought at premium prices from someone who knew somebody. So our fans are robbed, the band is robbed, and the government is robbed of tax revenue on illegally inflated ticket prices.

Aerosmith's determination to provide a way around Ticketmaster's restrictive distribution policies and fees has led us to support an Aerosmith fan club whose members can buy good seats to our concerts with only a minimal service charge. I would like to relate my own story of an encounter with Ticketmaster's Fred Rosen as an example of how business is done when a band is dealing with a monopoly.

In 1989, we approached Ticketmaster at the beginning of an extended world tour for which we expected to sell millions of seats. We were seeking a volume rebate in consideration of the enormous amount of business we were doing with this company. We either wanted Ticketmaster to lower its service charge or pay some kind of rebate to the band so that Aerosmith could in turn lower the ticket charge to its fans.

Rosen was unwilling to support us on either of these courses of action.

Once again, at a meeting I personally had with Mr. Rosen on January 5, 1993, at the start of negotiations for our current world tour, we came back to the very same issues. Once again, Rosen responded to our proposals by refusing either of these options. Instead, Mr. Rosen suggested that if the band would agree to advertise the ticket price and the service charge together as one single cost, he would raise Ticketmaster's charge by \$1 per ticket and split the proceeds with the band.

I told Mr. Rosen that his offer was like offering a cold man ice in the winter. Admittedly, his solution would make us and him more money, but at the expense of an already overburdened young fan.

The moral of this story is that monopolies like Ticketmaster tend to raise prices and rarely, if ever, lower them, even for their best customers.

Aerosmith believes that Ticketmaster's nearly absolute power over access and fees on performance tickets is corrupting the sys-

tem and working to the disadvantage of an entire industry and its consumers.

Competition is the American way, and as a result of Ticketmaster's monopoly position, there is almost no competition in the ticket business anymore. Artists trying to buck the system, like Pearl Jam, have been threatened and blacklisted. Consumers are being forced to pay too much to buy tickets. Many good seats are withheld from the market and resold at exorbitant profits that are shared neither with the artist nor the tax man.

Mr. Chairman, Ticketmaster operates an unfair and unregulated monopoly whose actions, Aerosmith believes, are not in the public interest. Aerosmith urges this committee and Congress to restrain Ticketmaster's monopoly. We support the view that the entire ticket distribution system needs to be open to greater competition, and if Federal regulations are needed to ensure this, we would support them.

We would also like to see a uniformity of regulations, since different States have different laws on the resale of tickets. This leads to the current epidemic of ticket scalping and other illicit sales.

In conclusion, Mr. Chairman, monopolies have for centuries supported the interests of tyrants. Mussolini's trains and Ticketmaster's ticket systems may run well, but they don't run right.

Mr. Chairman and members of the subcommittee, I thank you for the opportunity to appear before you today, and I look forward to answering any questions.

[The prepared statement of Mr. Collins follows:]

STATEMENT OF TIM COLLINS TO THE HOUSE GOVERNMENT OPERATIONS
COMMITTEE'S SUB-COMMITTEE ON INFORMATION, JUSTICE, TRANSPORTATION
AND AGRICULTURE

WASHINGTON, DC

JUNE 30, 1994

Mr Chairman, and members of this sub-committee, thank you for inviting me to testify here today.

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Mussolini's trains and Ticketmaster's ticket system may run well, but they don't run right.

Mr Chairman and members of the sub-committee, I thank you for the opportunity to appear before you today and I look forward to answering your questions.

Mr. CONDIT. Our next witness is Mr. Downs. Mr. Downs is the attorney for R.E.M. and he is also a professor for the University of Georgia School of Law. Thank you for being here today.

STATEMENT OF BERTIS DOWNS, ATTORNEY, R.E.M., AND ADJUNCT PROFESSOR, UNIVERSITY OF GEORGIA SCHOOL OF LAW, ATHENS, GA

Mr. DOWNS. Good morning, thanks for letting me be here. I live in Athens, GA. As you said, my name is Bertis Downs. I am the attorney for the group R.E.M., a popular rock band that I have represented since I graduated from law school in 1981. As you also said, I teach part-time at the University of Georgia School of Law where I teach courses on entertainment law and sports law. Also, for the last 2 years I have served as the music division chair of the American Bar Association's Forum Committee on the Entertainment and Sports Industries.

I mention these affiliations for identification purposes only, and emphasize that the views I am about to offer are mine alone and not necessarily the views of any organization with which I am associated.

My views spring principally from my representation of R.E.M. The band was founded in 1980 and has given hundreds of live performances since then. Right now, R.E.M. is actively considering another major tour, possibly as early as 1995. Since my own work largely concerns these tours, I have had a chance to observe all of the many business components that make up the live music touring industry. If you don't mind, I am going to take a second to draw—I am going to get into my teacherly mode.

I want to draw on the blackboard to show how a deal is put together. There have been a lot of questions, trying to get at sort of the macro part of all this and I want to try to provide a framework or a context for you to understand how this particular corner of the music touring industry, ticket sales, relates to the rest of it, and I then want to make a larger point about that.

It is a very simple relationship between talent, which I will just put a T for talent, the act, maybe I should put a PJ there, which enters into a contract with a promoter, which I will indicate with a P. Generally, that is a local promoter. There are certainly promoters that have a national reputation, that have national clout and can kind of go anywhere, but the typical situation is that in Long Beach you are going to deal with a promoter for Long Beach, and when you move up to San Francisco you are going to deal with a promoter from San Francisco, when you come down our way to Atlanta you are going to use somebody there. That is your basic contractual relationship, between an artist and a promoter.

There is a contract issued. It is issued through an agent which is a very important intermediary that is sort of the fulcrum between this relationship. The agent is directly between talent and promoter. The band surrounds itself with sort of this cocoon of representatives. The representatives would include attorneys, personal managers, a business manager, and, as I mentioned, an agent. There are others—and I guess you can also put some of the tour personnel like a tour manager. Incidentally, I can't think of very many bands who would have come and sat at this table today and

stripped away all those layers of that cocoon, so as other people have said, it is pretty laudable that these guys did that. That typically is the team of representatives, the sort of committee that is around the band that makes—that in conjunction with the band, to some degree, decides things like ticket prices and where they want to play and whether it is going to be indoors or outdoors and exactly the shape and the philosophy of the tour.

The talent is represented by all these people. They then have to contract with a lot of third parties. They have to hire the production, which includes things like sound companies, lighting companies, companies that build stages and sets, then the companies that truck all those things around and put people in buses. It is a pretty heavy-duty operation. Major tours might have a couple hundred people on the road at any given time.

Those people have relationships with crews, production managers, additional musicians, and other support functions on doing a tour. There is a merchandising aspect of this, selling the T-shirts and novelties. The merchandisers are a third party that directly contract with the band.

Finally, the record company has a lot of impact on this. The record company might provide things like tour support. They might help promote the tour, and there is, again, another third-party relationship there, that all kind of plugs in through this part of the equation, talent.

The promoter, on the other hand, has to first secure a site or a venue. The promoter has to hire a lot of support services, things like transportation companies, security companies, catering companies, advertising agencies, all these things. That is the promoter's job to put the show on and to hire these various support companies.

I forgot to put a very important one over here on the talent side, which is insurance. The band has to buy its own insurance, the promoter has to buy its own insurance, which includes coverage for liability if somebody gets hurt at the show, and for nonappearance, rain, if something happens the show can't go on. There are insurance companies representing both sides of this. Then the promoter also has to sell the tickets to the fans, and typically in 1994, at least for the last few years, they have had to go through Ticketmaster and ultimately the fan gets to buy the ticket through the promoter and come to the show. That summarizes the basic business relationships created when a national-scale tour disembarks.

I have made a little bit more readable form of this for the committee. I don't know the procedure for letting you guys—I have done sort of a chart that helps to lay that out because you see it has got a lot of interlocking relationships. The point I really want to make is kind of the only point I want to make today is that if you look—don't look at board, it is kind of ugly, if you look at that chart, with all these various relationships on the talent side, the promoter side, all the various third parties that are contracted with, with the exception of one place, there is competition.

There are lots of business managers out there. If Mike McGinley stopped doing a good job for these guys, there are other people that could take his place. I doubt that will ever happen, but there are

lots of business managers out there. There are six major record companies, so they may have an exclusive contract with that record company, but if that contract is ever up, and in some band's career if they are fortunate, maybe it will eventually be up. They can go somewhere else. They can go down the street or across the country and they can contract with another record company.

There is also intense competition among promoters. There are little hometown promoters and there are big national promoters. They vary in scope and style, and there are various promoters who work with certain types of music. There is a lot of competition.

When a band is coming into Atlanta or coming into Long Beach, promoters vie with each other. They make offers, they have a price competition to secure the services of the band. In all these areas, support services, the tour, the production company, sound, lights, again, it is all based on price and other intangible types of competition. It is part of the key to the working of the system. There is one exception.

At this point in 1994, for at least the last few years, there really isn't any choice. If you want to do a major tour, a major arena level tour in major markets, you have no choice. It comes along with the building. It comes along with the building the same way concessionaires do. Ticketmaster is the company through which the fans have to buy tickets and the promoters have to use to be able to put the shows on sale. That is, to me, sort of a way of explaining, and I hope through the chart there that you are able to follow that and to see how the ticket distribution aspect of that fits in.

I have had plenty of experiences as a consumer and as a professional with the Ticketmaster system. It is a good, efficient system, no doubt about it. It provides a valuable service, and Ticketmaster is entitled to make a profit, as any other business in our country is able to do. However, I think what we have here is a situation where there is no price competition among various ticket services. Instead there is one that rules and that determines unilaterally, or in conjunction with its "partner" promoter or building the service charge portion of a ticket.

I want to explain one other little thing about that. Ticket prices, as it has come out already today, ticket prices are really two major components: The event portion of the charge, which is the price people pay, the \$18 or whatever that people pay to come view the show, and then the service or handling charge or convenience charge that is added above that. Ticket prices are determined—there has been a lot of talk about ticket escalations and things getting expensive in Eagles shows and Barbra Streisand shows and the things that are out there approaching \$100 or more. But those changes are still governed by a marketplace.

If the group or the attraction has decided to set their tickets too high, they are not—they don't have the kind of altruistic ideals, they don't have the kind of ideology that you have heard about today. They have just decided they are going to go higher, they are going to push it, they are going to make as much money and retire to their castle. Well, if they price themselves out of the market by pricing the tickets too high, people won't come to the show.

However, the service charge part of the ticket, which is substantial, it is somewhere—it is hardly ever less than 10 percent, and

it is often as high as 25 percent of the overall cost of the ticket. That is determined really, it may be determined by some sort of calculation between promoters and the provider, but it is by and large determined by a single provider of the service, what could, I think, be characterized fairly as a monopoly.

There may be some problems in the system which have been highlighted about tickets not being sold at box offices, people not being able to get seats, I am not sure there is a limit to how high these service charges can go, given the lack of competition. There isn't that market competition.

I want to contrast that with the situation in Europe. Ticketmaster, as far as I know, at this point in time, is not selling tickets in Europe. Ticket charges in Europe, which I guess we can kind of roughly compare our economies with, are somewhere in the neighborhood of around 5 percent.

Somebody asked earlier, the Congresswoman from Florida asked what is a reasonable charge. I think the answer was really a market should determine what a reasonable charge is, but where the market does work, if you want to buy a ticket to a concert in London you have your choice of five ticket agencies and the service charge is somewhere in the neighborhood of 5 to 7 percent, as opposed to what we are seeing which is approaching a much more significant fraction of the overall price. The reason this is important to bands, I think you have been able to—I think we all were able to tell from the testimony of the two members of Pearl Jam, the reason this is important to bands is because fans may—whether it is broken out on the ticket price or not, fans in a sense blame the band for what they are having to pay. They don't really know the politics, they don't know the ins and outs of how this stuff works. They just know how much they are having to pay to go to the show.

If the price gets too high, if it gets to the price where it is unaffordable to the fans, it is really the band's goodwill. It is Pearl Jam's goodwill. It is R.E.M.'s goodwill. That is who ends up bearing the brunt of the fans feeling pinched or squeezed by this charge.

I want to close, and I have put a lot of this in my statement which I think I have already submitted for the record, but I want to close with just a little story that used to happen whenever R.E.M. would tour. They haven't toured since 1989, so they haven't toured during the current situation. As I said, we are very seriously considering touring again next year and this will become a very important issue to us, and it already has, but up until 1989, the band R.E.M. used to tour, and they were always real big in their hometown or close to their hometown of Atlanta.

Whenever they came to Atlanta to play, one of their several nights at the Fox Theater before they graduated up to playing the Omni, we would get a call. We had always used a company called SEATS, which is a predecessor company to Ticketmaster in Atlanta. We had always used SEATS because they had good outlets, they had reasonable charges, and the main thing was they had good locations. They had good locations in a particular record store, which was the most popular record store, and the kids could go there to buy their seats.

We would always get a call every couple of years whenever a show was being scheduled from a competitor who ran a company called TickExpress. We weren't as impressed with TickExpress. They didn't have the connections that SEATS had at the time. They weren't in the same locations. They were in some sort of far out malls that really didn't make as much sense for the average fan to go buy their tickets and so we always said thanks for calling, we will consider it and we ended up never going with the competitor. We stayed with SEATS—we had loyalty to the original ticketing company we had, but the point I want to make is we did get that call: there was a competitive element to it. If SEATS had decided to jack things up to the point of unreasonableness, we could easily have stopped doing business with them and gone to their competitor, gone somewhere else.

Those potential entrants to the market aren't happening anymore. That is no longer there. That element of competition isn't there. As I face planning a tour for next year, I really sincerely hope that between the various things that are going on right now, between what Justice is doing and your political oversight, I don't know what the solution is to this, but I really hope that some break in the logjam occurs because I really don't see this being a workable system, having the price set unilaterally by someone who has this much market power.

I really thank you for letting me be here and I think as somebody said, they don't know much about alternative music. I am not sure how appropriate a tag like alternative music is anyway, and Pearl Jam, who is an alternative rock band like R.E.M., I think really, somebody said what are you looking for, what is the solution to this, is it divestiture, is it government regulation? I am not sure anybody here really wants to provide any kind of a blueprint of answers for this, but I think what we are really looking for is an alternative to the present system.

I think what we are looking for is other ways of doing things rather than having to go through a single source. Those are my comments and I appreciate very much you letting me speak.

Mr. CONDIT. Thank you, Mr. Downs, for that fine presentation.
[The prepared statement of Mr. Downs follows:]

HOUSE GOVERNMENT OPERATIONS SUBCOMMITTEE ON INFORMATION,
JUSTICE, TRANSPORTATION AND AGRICULTURE:

*"Pearl Jam's Antitrust Complaint: Questions About Concert, Sports,
and Theatre Handling Charges and Other Practices"*

Testimony of Bertis Downs

My name is Bertis Downs. I live in Athens, Georgia. I am an attorney for the group R.E.M., a popular rock band that I have represented since I graduated from law school in 1981. I am also an Adjunct Professor of Law at the University of Georgia School of Law, where I offer courses in Entertainment Law and Sports Law. For the last two years I have served as Music Division Chair of the American Bar Association's Forum Committee on the Entertainment and Sports Industries. I mention these affiliations for identification purposes only, and emphasize that the views I am about to offer are mine alone and not necessarily the views of any organization with which I am associated.

My views spring principally from my representation of R.E.M. The band was founded in 1980 and has given hundreds of live performances since then. Right now, the band is actively considering another major tour, possibly as early as 1995. Since my own work largely concerns these tours, I have had a chance to observe all of the many business components that make up the live music touring industry.

The main point I would like to make today is that the concept of competition is at the root of the entire concert industry except in the area of ticket distribution. The live music touring industry itself is a complex, interlocking web of relationships:

- within a given geographical market, there is a competition among promoters, who vie with each other for the right to offer a particular concert by a particular artist;

- there is also competition among venues or sites for concerts, which offer different locations, different sizes, different prices and different amenities;

- there is certainly competition among attractions, relating to various levels of groups' careers, artists' styles, changing public tastes, and so forth;

- there is competition among the many companies that offer local support services- security firms, caterers, limousine companies and the like-which provide ancillary services for concert touring groups;

- there is competition too among various touring support companies - sound companies, lighting companies, trucking companies, busing companies, companies that provide special effects, and companies that provide stages and sets; and

-there is also competition among the several major merchandisers of novelties and clothing at concerts.

For all of these indispensable elements of successfully mounting a show or tour, competition is the key to the working of the system. But this is not true in one critical area, that of ticket distribution. There, for all intents and purposes, Ticketmaster has become the only game in town. There is no market or choice available to would-be customers in the industry. They must deal with Ticketmaster.

Is Ticketmaster good at what it does? Yes. Does Ticketmaster provide a valuable service with efficiency and effectiveness? Again, yes. Without a doubt, Ticketmaster provides a valuable service and is good at getting tickets into the hands of consumers. For these reasons, my comments should not be taken as anti-Ticketmaster. Instead, they should be taken as pro-competition, and more specifically pro-price-competition.

To make my point, I would like to shift the focus to the other major component of the popular music business - the recorded music industry. In that business- which along with concert revenues represents the bulk of an artist's earning potential- there are six major distributing companies responsible for about ninety percent of domestic record sales. Can anyone imagine a benefit that would obtain if at some point, for whatever reason, that were only one such distributing label? I cannot. The benefits of a competitive system are clear, especially when contrasted with the alternative of

concentrating all power into a single provider of a product marketed to virtually all Americans.

Without market competition to consider, a monopolist can raise its prices, cut its services, and reduce its flexibility without fear of a competitor winning away its customers. I believe that this is the basic reason the antitrust laws were put into effect more than a century ago - to ensure healthy competition among businesses for the benefit of consumers and the overall economy.

How do these policies bear on the issue of concert-ticket distribution? To answer that question it is important to recognize that ticket prices are really made up of two major components--the "event" portion of the price paid actually for attending the concert, and the "handling", "service", or "convenience" charge levied by Ticketmaster for its services. It is also important to note that the Ticketmaster portion of the total charge is always significant - in some cases as much as 20-25% of the ticket price, and seldom less than 10-15%.

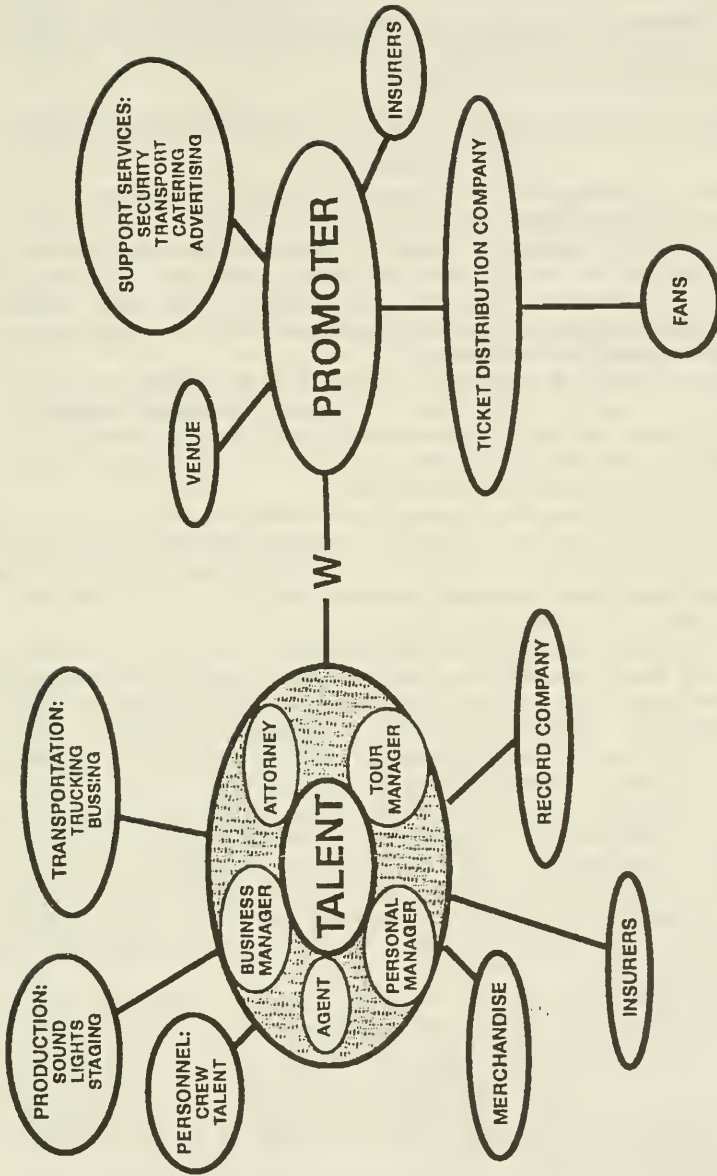
In other words, a substantial portion of the price of virtually every concert ticket sold in this country is set by the exercise of unregulated monopoly power. Moreover, this particular type of market power carries with it some special dangers. For example, the total price of the ticket is typically "blamed" on the artist, even though the "handling charge" portion of the ticket is not normally attributable to the attraction at all.

Everyone is aware of escalating ticket prices for concerts. The event portion of these prices, however, is determined by market forces. If Band X charges too much for its show, the fans will stay home or attend another concert. Handling charges for ticket distribution, on the other hand, are shaped not by what the market will bear, but what the single provider decides to charge. Under the present system, without the leavening effect of market competition, is there a limit to the escalations seen in recent years with regard to handling charges?

I would like to relate in closing a simple but true story that might provide some insight into my main contention, that reintroducing competitive forces into the entertainment ticket distribution industry would be a wise and useful policy to pursue. R.E.M., the group I represent, toured a great deal prior to Ticketmaster's ascendancy to its dominant position. During that period, when a tour stop was planned for R.E.M.'s close-to-hometown of Atlanta, I would get a call from the owner of TickExpress, one of the then-two ticketing companies competing for Atlanta concerts. He would try to sell me on his firm's ability to do the business for our shows, highlighting its outlets, charges and efficiency. We never shifted our business to TickExpress from SEATS, largely because SEATS had superior locations including a popular record-store chain. I always appreciated knowing, however, that we had a choice, a viable alternative in the event we ever decided that a change would be advantageous. As I look ahead to planning a possible tour for R.E.M. in the years to come, I would like to get those types of calls again. We certainly do from all the other tour-related services. And for such a critical service- the

service of actually putting fans in seats- it seems genuinely off course to see a total lack of competition.

I would like to thank the committee for inviting me here today, and I hope that my comments have helped you in your understanding of this aspect of the concert industry.



ANATOMY OF A CONCERT DEAL

Mr. CONDIT. Our next witness is Mr. David Marsh, who is a rock and roll historian. Once again, if you want to submit your written testimony and paraphrase, you are welcome to do that, whatever you are comfortable with, Mr. Marsh.

**STATEMENT OF DAVE MARSH, ROCK AND ROLL HISTORIAN,
NEW YORK, NY**

Mr. MARSH. Thank you, Mr. Chairman. My name is Dave Marsh. My interest in this subject is both professional and as a music fan and historian. For the past 25 years I have written about rock and roll as a journalist, critic, historian, and author of 15 books. I would like to comment today on the history of the rock concert business, communicate some problems uncovered by my research and suggest a possible resolution.

In the late 1960's, a new style of music and performer required a new kind of concert. The old multigroup package shows disappeared in favor of solo concerts—or at most two or three acts on a bill—which were held in theaters, ballrooms, small concert halls, and eventually in arenas and stadiums.

For a variety of reasons, among them competence, practicality, and basic loyalty, a select number of promoters of these new style shows became entrenched. Competition among these promoters has rarely been more than nominal, except in the largest cities. Even there, a third option is a rare thing.

While the contemporary concert business lacks the central directorate of the classic cartel, the fact remains that these promoters observe unspoken boundaries, going to great lengths to avoid invading each other's territories. Where possible they acquire leverage through exclusive arrangements with buildings and through old-boy style associations with acts and agents.

All this severely hampers the rise of alternative promoters. One consequence over the past decade or so: The principal promoters in Philadelphia, Boston, and New Jersey have all signed consent decrees relating to anticompetitive practices. Now, stars, managers, agents, and venues are used to operating within a monopolistic or at least an uncompetitive structure. Many prefer it that way and understandably so.

In a night-to-night business which is usually conducted far from everyone's home base, familiarity, experience, and stability become extremely attractive. Ticketmaster's role in the concert industry and particularly the extreme latitude it has been granted emerges directly from this context. On what other terms would the idea of a mere ticket seller dictating business terms to a star attraction make any kind of sense?

No matter what happens here today and no matter what the Justice Department resolves to do, business as usual in the concert industry is over, and it ended because of a single concert attraction, but what that doesn't mean is that this dispute is ultimately between Ticketmaster and Pearl Jam.

If that were the case, this forum would be entirely inappropriate and the entire issue would have been blown far out of proportion. What makes this hearing appropriate is the dispute between Ticketmaster and growing numbers of disgruntled ticket buyers,

buyers of tickets not only to rock concerts but to other entertainment and sports events.

When they complained to the Justice Department, Pearl Jam became the standard bearers of that dissatisfaction. In order to better understand the ticket buyer's perspective, I recently posted messages on CompuServe's Rock Net computer bulletin board. The responses I received reflected a large degree of dissatisfaction with Ticketmaster's prices, which did not surprise me. The responses also revealed some Ticketmaster practices that did surprise me.

For instance, I was aware that Ticketmaster's service charge applied to each and every ticket in an order, even though not one additional key stroke is necessary to sell the customer eight tickets rather than one, and additional costs for those eight tickets for paper stock and printing are very minimal. What I didn't know was that in Detroit, Chicago, and Cincinnati, Ticketmaster, through an arrangement with certain facilities, adds a parking fee, not to each order, but to each ticket.

In other words, if seven fans arrived in a single van, they would pay 7 times more for parking than a single gas guzzler. This is true, for instance, at Detroit's Chene Park, which Chairman Conyers mentioned earlier and having lived in that vicinity, that is even stranger to me because I know there is plenty of free parking available in the neighborhood and, in fact, some people in that community may even walk to that show. Nevertheless, if they buy the ticket they must pay to park.

Even more than the high fees, I learned the practice of applying the service charge and the other charges to every ticket rather than to every order aggravates consumers. Public statements by Ticketmaster indicate that an important justification for these charges involves the company's sophisticated computer system. When I raised this, I just about got laughed off CompuServe.

The second most commonly cited complaint is dialing Ticketmaster and receiving a busy signal sometimes for hours on end. A sophisticated computer system would find a way to cue calls. All of us are all too familiar with such telephone cues. I think that is another reason why Congressman Horn doesn't like to buy tickets that way. A sophisticated computer system would ensure that a group of four reserved seats at a Pearl Jam show were grouped together, and it could also make a price distinction between reserved seat shows and general admission concerts. At present, the service charge for a GA show where seats are first come, first served—and in some cases there are no seats—is exactly the same as for a show with reserved seating.

Actually, this summary is somewhat deceptive. In any discussion of ticketing among consumers the majority of complaints are about ticket scalping. These are addressed to everyone in the chain of access from venue employees to the acts themselves, and it must be said that Ticketmaster's reputation in this regard is much better than its predecessor Ticketron, which Ticketmaster absorbed 3 years ago.

Scalping, per se, is under investigation presently by the New York State Attorney General and has received much scrutiny by the California State government as well. It is a side issue here, but an important one. Ticketmaster's absorption of Ticketron is of the

essence, however. Ticketron had a similar stranglehold on the off-site ticket market through the early 1980's and industry dissatisfaction led to the development of its rival. But from the consumer point of view, Ticketmaster has resolved few if any of the problems that Ticketmaster presented. Its service charge per ticket rather than per order exacerbates those problems.

Competition can alleviate some of this. In Portland, OR, one of the few areas where Ticketron still faces a competitor or at least a meaningful competitor, service charges are, for instance, markedly lower. But this industry's instinct, as I said, is to avoid competition, and as I said, there are some sound reasons for avoiding that competition.

Given this history, I don't think it is any longer reasonable to assume that the concert industry is going to self-regulate. But maybe having a single ticket service operating across all forms of culture from sports to opera, maybe that even has some consumer advantage in the way that we are moving to a more technological society. If that is the case, then I believe we should declare ticket services a kind of utility subject to governmental oversight if not full scale regulation.

I know that this goes against the current governmental trend, but what we are dealing with here is not only the entertainment industry. We are dealing with what has become an important and for many of us perhaps the most important facet of contemporary culture, and I think that is true for millions of people. The most significant evil a ticket monopoly creates is access to popular culture only for those who can pay very high premiums. This is folly in the first place because it is precisely the egalitarian nature of American popular music which has made it so powerfully attractive not only here but in the world market, and it is folly in the second place because what may seem like mere amusement to any of you may be what strikes someone else to the core of their soul.

Rock music does this far more often than those who are not part of its culture suspect, and it does it by speaking clearly to and for people who in many cases have no other popular voice—public voice. From Elvis to Bruce Springsteen, America's best popular musicians have interacted with and affected their audiences in exactly this fashion. This tradition is now carried on by Pearl Jam, who come here today not as litigants asking for dollars, but as citizens asking for justice, and not even justice for themselves, but justice for those who are less powerful than they are.

If we are going to deal with these problems constructively, it ought to be in that spirit, which is the spirit of rock and roll. Thank you.

[The prepared statement of Mr. Marsh follows:]

Statement by Dave Marsh

My name is Dave Marsh. My interest in this subject is both professional and as a music fan and concertgoer. For the past 25 years, I've written about rock'n'roll as journalist, critic, historian and author of fifteen books. Today, I'd like to comment on the history of the rock concert business, communicate some problems uncovered by my research, and suggest a possible resolution.

In the late Sixties, a new style of music and performer required a new kind of concert. The old multigroup package shows disappeared in favor of solo concerts (or at most, two or three acts on a bill) in theatres, ballrooms, small concert halls, and eventually arenas and stadiums. For a variety of reasons--among them, competence, practicality and basic loyalty--a select number of promoters of these new-style shows became entrenched. Competition among these promoters has rarely been more than nominal, except in the largest cities--New York and Los Angeles. Even there, a third option is a rare thing. While the contemporary concert business lacks the central directorate of the classic cartel, the fact remains that these promoters observe unspoken boundaries, going to great lengths to avoid "invading" each other's territories. Where possible, they acquired leverage through exclusive arrangements with buildings and old boy-style associations with acts and agents. All this severely hampers the rise of alternative promoters. One consequence: Over the past decade or so, the principal promoters in Philadelphia, Boston and New Jersey have signed consent decrees relating to anticompetitive practices.

Now stars, managers, agents, and venues are used to operating within a monopolistic--or at least, uncompetitive--structure. Many prefer it that way. Understandably so. In a night-to-night business, usually conducted far from home base, familiarity, experience, and stability become extremely attractive. Ticketmaster's role in the concert industry, and particularly the extreme

latitude it has been granted, emerges directly from this context. On what other terms would the idea of a mere ticket-seller dictating business terms to acts and audiences make sense?

No matter what happens here today, and no matter what the Justice Department resolves to do, business-as-usual in the concert industry is over. It ended because of a single concert attraction. But that doesn't mean that this dispute is ultimately between Ticketmaster and Pearl Jam. If that were the case, this forum would be entirely inappropriate, and the entire issue blown far out of proportion. What makes this hearing appropriate is the dispute between Ticketmaster and growing numbers of disgruntled ticket buyers—buyers of tickets not only to rock concerts but to other entertainment and sports events. When they complained to the Department of Justice, Pearl Jam--intentionally or not--became the standard bearers of that dissatisfaction.

In order to better understand the ticket buyer's perspective, I recently posted a message on CompuServe's Rocknet computer bulletin board. The responses I received reflected a large degree of dissatisfaction with Ticketmaster's prices, which did not surprise me. The responses also revealed some Ticketmaster practices that did surprise me. For instance, I was aware that Ticketmaster's service charge applied to each and every ticket in an order--even though not one additional keystroke is necessary to sell the customer eight tickets rather than one, and additional costs for paper stock and printing are minimal. But I didn't know that in Detroit, Chicago and Cincinnati, Ticketmaster, through arrangement with certain facilities, adds a parking fee, not to each order but *to each ticket*. In other words, if seven fans arrive in a single vehicle, they pay seven times more than a gas-squandering loner. This is true for instance at Detroit's Chene Park which, having lived in the vicinity, I know has plenty of free street parking. Even those who *walk* to the concert must pay Ticketmaster for parking.

Even more than the high fees, I learned, the practice of applying the service charge to every ticket, rather than to each order, aggravates consumers. Public statements by Ticketmaster indicate that an important justification for these charges involves the company's sophisticated computer system. This got a big laugh on CompuServe, since the second most commonly cited complaint is dialing Ticketmaster and receiving a busy signal, sometimes for hours on end. A sophisticated computer system would find a way to queue calls. (All of us are all too familiar with being placed on hold in such queues.) A sophisticated computer system would ensure that a group of four reserved seats at the Pearl Jam show were grouped together--and it could also make a price distinction between reserved seat shows and General Admission concerts. At present, the service charge for a G.A. show, where seats are first come, first served (and in some cases, there ARE no seats) is exactly the same as for a show with reserved seating.

Actually, this summary is somewhat deceptive. In any discussion of ticketing, the majority of complaints are about ticket scalping. These are addressed to everyone in the chain of access from venue employees to the acts themselves. It must be said that Ticketmaster's reputation in this regard is much better than its predecessor, Ticketron, which Ticketmaster absorbed in 1990. Scalping per se is under investigation by the New York state attorney general and has received much scrutiny by the California state government as well. It's a side issue here.

Ticketmaster's absorption of Ticketron is of the essence, however. Ticketron had a similar stranglehold on the off-site ticket market through the early '80s, and *industry* dissatisfaction led to the development of its rival. But from the *consumer* point of view, Ticketmaster has resolved few of the problems Ticketron presented. Its service charge per ticket, rather than per order, policy exacerbates them. Competition can alleviate some of the problem: In Portland, Oregon, one

of the few areas where Ticketmaster still faces a competitor, service charges are markedly lower. But this industry's instinct is to avoid competition--and as I said, for some sound reasons. Given this history, it is no longer reasonable to assume that the concert industry will self-regulate.

Perhaps having a single ticket service operating across all forms of culture from sports to the opera even has some consumer advantage. If that's the case, then we should declare ticket services a form of utility, subject to oversight, if not full-scale regulation.

I realize that this goes against the current trend in government. But we're dealing here not only with the entertainment industry but with what has become an important--perhaps the most important--facet of contemporary culture for millions of people. The most significant evil a ticketing monopoly creates is access to popular culture only for those who can pay very high premiums. This is folly, in the first place, because it's precisely the egalitarian nature of American pop music which has made it so powerfully attractive in the world market. And it is folly in the second place, because what may seem like mere amusement to any of you, may be what strikes someone else to the core of their soul.

Rock music does this far more often than those not a part of its culture suspect by speaking clearly to and for people who may have no other public voice. From Elvis to Bruce Springsteen. America's best popular musicians have interacted with and affected their audiences in exactly this fashion. This tradition is carried on by Pearl Jam, who come here today not as litigants asking for dollars but as citizens asking for justice, and not even justice for themselves but justice for those less powerful than they are. If we're going to deal with these problems constructively, it ought to be in their spirit, which is the spirit of rock'n'roll.

Mr. CONDIT. Thank you very much, Mr. Marsh.

Our next witness is Mr. Rascoff. Mr. Rascoff is the managing director of RZO Inc., New York, NY. Mr. Rascoff.

STATEMENT OF JOE RASCOFF, MANAGING DIRECTOR, RZO INC., NEW YORK, NY

Mr. RASCOFF. First, Mr. Chairman, let me slightly correct that. Although I have been squatting in New York working on a project that you will hear about for the better part of this past year, I am from Los Angeles. I have since 1975 been involved in the business affairs of the Rolling Stones. I am producing the recently announced tour of the Rolling Stones, and have produced every tour of the Rolling Stones since 1975.

First, I have no prepared statement which you may note, but I do want to say a few things to the committee and I appreciate the opportunity. The first thing I would like to say is clearly I have absolutely no quarrel with the idealism and the fervor of the position that Pearl Jam puts forth. I think in the context of the way Pearl Jam operates in the marketplace and the choices that they make in the marketplace, I think their sentiments are heartfelt. I am here for a slightly different reason, and that is to tell the committee that as important as that position may be, it is not necessarily the way the entire industry operates.

There is a segment of this industry manifested in the Rolling Stones as an example, which is my experience, which has slightly different experiences from Pearl Jam. It is not in any way to detract from the merit of Pearl Jam's position. It is simply a position that comes from their view and their method of operating in this industry. The Rolling Stones operate in a slightly different method and a more broad-based method which I will explain to you.

The simple fact of the matter is—let me clarify that for a moment, the Rolling Stones have recently announced a tour it will take us the better part of a year to complete. We hope to go around the world, we hope to sell somewhere between 4 and 5 million tickets, and this will be a tour only of stadiums. We will not play theaters, we will not play clubs unless we drop in for some fun to play there, we will not play arenas, we are playing stadiums. Stadiums mean football stadiums, baseball stadiums, soccer stadiums. We have not announced too many shows thus far.

We have announced or rather put on sale nine tickets in North—sorry, nine markets have gone on sale thus far for this tour, which starts interestingly enough here in Washington on August 1. The first observation I would like to make is simply this: In the nine markets that we have gone on sale, five of those markets do not have exclusive ticket distribution arrangements with Ticketmaster.

The fact of the matter is we are selling all those tickets, with some exceptions, where we are allocating some tickets to local ticket companies, but for the most part we are choosing to deal with Ticketmaster. We are choosing to deal with Ticketmaster not because we are forced to, but rather because that is our choice, and why is that our choice? It is our choice for one simple reason. It is absolutely impossible in the 1990's to route a tour of the magnitude of the Rolling Stones stadium tour without the most sophisticated distribution, ticketing distribution system available. If we

put one stadium show on sale, it is very important for us to know within hours, not days and not weeks, which was the case when I first entered this business, within hours how those ticket sales are going, did that show sell out, should we add a second stadium show, should we wait until next week?

How can we route a tour without knowing that and know whether we need to, for instance, hold the stadium in Detroit for next week or we risk losing it? We can't do that unless we know how many shows we can sell in New York the week before as an example. So instantaneous information is essential. Is Ticketmaster the sole repository of the infinite wisdom of instant information? I certainly hope not. But the fact of the matter is they have a very sophisticated system which enables us to achieve our very essential objectives.

We look around at other alternatives, and none of them are satisfactory, and so we choose in those markets to deal with Ticketmaster. In those markets where we don't have a choice, I will address that in a moment. So the simple fact of the matter is that routing a tour of the magnitude of the Rolling Stones without a system as sophisticated as Ticketmaster's is like running an office without a fax machine and without a photocopying machine. It is just not the way to efficiently run a business in the 1990's.

The next point I would like to address, and then I will yield to my colleagues, is pricing in the marketplace, and I must say I commend my colleague on this panel, Bert Downs. He is obviously an excellent pedagogist. I commend him for his analysis which I think is very succinct, very complete, and probably quite accurate with one exception, and we can address that exception. It is true that most elements of a ticket price are determined by the marketplace, as Mr. Downs said.

I would submit that ticket service charges are also determined by the marketplace, not by fiat, but it is a different marketplace. Mr. Marsh and Mr. Downs talk about the marketplace of the consumer, and that clearly is a very important marketplace in this business, but there is another marketplace. There is nobody, I think, who is suggesting that Ticketmaster agreements are unilaterally determined.

We go into a building that Ticketmaster has an exclusive distribution agreement with, and we learn that that is a freely negotiated, or I am told in any event a freely negotiated arm's length agreement with a limited term, and we are told the following: We are told that if you want to distribute tickets this is the charge that—this is the company that must impose a charge and distribute the tickets. Why?

Let's put aside the fact that I choose to work with them. Why? Because they have an exclusive agreement. Is that the only exclusive agreement that that venue has that I have to contend with? Of course not. When we go into a venue, I may say, I would like to use my own labor to build that stage, but I am told, I am sorry, there is an exclusive agreement with a particular union, you must deal with them.

I might like to have my own family park cars in the parking lot, but I am told, I am sorry, there is an exclusive agreement with a parking lot concessionaire. I may want to sell my own T-shirts, but

I am told, I am sorry, there is an exclusive agreement with a vending concessionaire and so forth, and all these exclusive agreements enter into the price.

Let's not pretend that the ticket price is not devised to cover all costs plus a profit which, hopefully, people enjoy. So there are a lot of elements that go into a ticket price, and I think it is slightly inaccurate to place the total focus on the ticket service charge when it is one of many elements that go into the pricing of a ticket. Apart from making those limited observations, frankly, I have absolutely no quarrel with anything that has been said either on this panel or by the gentlemen from Pearl Jam.

Mr. CONDIT. Mr. Rascoff, thank you very much for that fine testimony. We appreciate your being here.

Mr. CONDIT. Mr. Morris is the—something I know about now—is the manager of the Nitty-Gritty Dirt Band and we appreciate your being here very much. You are from Denver, CO, is that correct?

STATEMENT OF CHUCK MORRIS, MANAGER, NITTY GRITTY DIRT BAND AND OTHERS, DENVER, CO

Mr. MORRIS. Yes, I am. I assume I was invited because my background actually is quite varied. I was formerly a vice president of the Fay Concert Co., which is the largest concert promoting company in the West, and in the last 10 years I have had a personal management company that includes country acts like Lyle Lovett and Suzy Boggus and rock acts like the alternative band, Big Head Todd, and the Monsters.

The question of Ticketmaster's positive and negative impact on the music industry is much more involved than opponents and proponents I think have suggested. The ticket industry itself is created by the absolute need for a centralized ticket company to replace the horrible previous method of promoters and bands sending tickets to a few stores to sell for shows.

This old method was slow, inefficient. Some areas had no outlets. Tickets would run out in some stores while others had an excess. Long lines were in some places while no lines were at others and generally the whole system was a disaster. Tickets were lost, stolen, and generally the whole process created ill will toward most of the promoters and the bands.

As the live entertainment business exploded in the 1970's, new national computerized companies took the place of the old system and generally gave the public a great alternative to the slow cumbersome tickets in a few stores approach. It opened up equal chances for the public to wait in line for the best seats and created for the first time tickets available on a national basis which should only help sell more tickets, especially for large events and music festivals.

The negative effect has been that Ticketmaster no longer has any competition and has gotten to the point where it has overcharged both the public and the bands for their services, I believe. This problem has been brought to the forefront by a whole new generation of musicians, much more concerned than those in the 1970's and 1980's. Musicians of today are aware and concerned about the bottom line for both themselves and the public.

Many such as Pearl Jam and Garth Brooks, as well as lesser names, are very concerned about their fans not getting ripped off and getting a fair ticket value for their performance. The exorbitant Ticketmaster fee seems way out of whack with this philosophy.

Today's young musicians are very aware and sensitive about the product they are giving to the public and the value that should be assessed on it. A \$4, \$5 or \$6 ticket charge added to an already high ticket price seems both repulsive and unfair to many of the young musicians of today.

Pearl Jam's attempt to bring this problem to the forefront is extremely admirable. I only disagree with one point, and that pertains to the assertion that there is some kind of conspiracy between Ticketmaster and some major promoters as to a boycott of a possible Pearl Jam tour. Being an expromoter and current manager, I have found in my 25 years in the business that no promoter in his right mind would pass on a chance to promote Pearl Jam this summer. Promoters are much too greedy to pass on the biggest act in America today no matter what the situation.

Even if they did, there are obviously other promoters within and outside the business willing to try it, if you take note of Michael Jackson and the owner of the New England Patriots tour about 10 years ago. I think if Pearl Jam really wanted to tour, they are big enough to have created their own in-house ticket company, somewhat like the Grateful Dead and found alternative buildings and promoters to do the dates.

I understand what they were talking about when they said this was an amazingly tough job and certainly side with everything they said before about how difficult it is and I have somewhat learned a little today about what they would have to go through, but I don't think it is insurmountable.

In summary, I think the solution to this complex problem should start with a couple of changes in the whole system. One especially is limited exclusivity between national ticket companies, buildings, and promoters.

Two, make it illegal to charge a ticket fee on canceled or postponed shows, which I believe is starting to happen these days, and three, limit the ridiculous ticket charge increases that have accelerated in the last 5 years.

Thank you very much for inviting me to this.

Mr. CONDIT. Thank you, Mr. Morris. If you have got time for some questions, we will try to get through them as quick as possible. I would like to ask everyone on the panel, let's just go down the line and make it easy, maybe we will start with Mr. Downs.

Is Ticketmaster a monopoly? Just give me a yes or no, and then I can—

Mr. DOWNS. In my opinion, Ticketmaster is an effective monopoly, depending on how you define what the market is. If the market is entertainment tickets across the country, I would say, yes, they constitute a monopoly.

Mr. CONDIT. So your answer is, yes.

Mr. Marsh.

Mr. MARSH. With similar—I mean I think it is a complicated question about definitions, but I think in effect, yes.

Mr. CONDIT. Mr. Morris.

Mr. MORRIS. I am not a lawyer, but it certainly appears that way.

Mr. CONDIT. Mr. Collins.

Mr. COLLINS. Absolutely in my world.

Mr. CONDIT. Mr. Rascoff.

Mr. RASCOFF. As my experience indicates, the answer is no.

Mr. CONDIT. Can you tell me why you believe they are not?

Mr. RASCOFF. Well, as I said to you, we have nine markets on sale on what we hope to be the largest tour of the coming year, all stadium shows, and five of those markets we were free to use any ticket distribution method we were able to.

Mr. CONDIT. I would like to ask, maybe I can get a colloquy going just for a few moments between Mr. Downs and Mr. Rascoff. You made the point to this chart, it appeared, Mr. Downs, when you made the presentation, the chart we have here, which is an excellent chart, we appreciate it, that the ticket distribution companies seem to be the only place where a monopoly may occur.

Mr. RASCOFF has pointed out that when you deal with the stadium and other things that you may have to take the caterer, you may have to take the parking. Do you have any comment on that?

Mr. DOWNS. Yes, I do. First of all, I wish I could have drawn it this way for the benefit of the rest of the people. It is a little neater and cleaner, but that is the anatomy of a deal. I didn't know that 5 out of 9 stadium shows that the Stones have just put on sale were not Ticketmaster. It certainly doesn't sound like the numbers I hear that at least have been dutifully reported.

Maybe Ticketmaster really truly only has 30 percent of the market, but it certainly seems and feels like they have a whole lot more power than that in the cities I know about.

I am equally impressed—I will return all the nice things you said about me—with Joe's presentation, and he does it without notes, which I really respect, but I call that the "hot dog" argument, which is that you have to take the—Pearl Jam can't decide when they come to town they don't want to use a certain brand of hot dogs. There are a certain amount of things that come with the building, parking, there is certain labor agreements. But there are two aspects to this, Joe.

To me, there is the exclusivity between the building and Ticketmaster, concessionaires, the facility merchandisers, the people who actually sell the shirts, the parking people. You can't put your family in charge of that, I agree, but I think where the rub really comes in and I am glad you asked me to respond, is that there is effectively in a lot of our experience only one of the big ticketing, national ticketing companies, and that is the real rub.

I think if we only had one hot dog company, the hot dogs would cost a lot more. It is not the exclusive deal with the hot dog company on a market-by-market basis. It is the overall effect on a national level of ticket prices.

Mr. RASCOFF. I absolutely agree there is only one effective company distributing tickets, but the question is why is that? I think that is because they came up with a mousetrap that no one has managed to better at an alternative price. It is not because by fiat someone decreed that they shall be the ticket distributor.

Mr. DOWNS. I think we can thank the previous administration for that, but we can't go back to that. We are now 1994. I know there were similar arguments made about AT&T a few years ago. I don't know if you all noticed, but the fact that AT&T has competition now, the operators are a lot more friendly. The fact that there is competition, even though AT&T was great, it is better now.

Mr. RASCOFF. Don't misunderstand what I am saying, if you were to ask me, would I like to see a competitor to Ticketmaster, absolutely, absolutely.

Mr. DOWNS. Good.

Mr. RASCOFF. The question is, though, why are they the dominant factor in the marketplace? The fact of the matter is they are the dominant factor in the marketplace because they are good at what they do and in tours that I do, we need that service. That is my only point.

Mr. CONDIT. I am sorry. I appreciate you guys doing that for us in responding to this question.

Mr. Marsh, Mr. Morris, Mr. Collins, do you want to add anything to that?

Mr. MARSH. I just wanted to say you know from the consumer point of view, there is not a choice in most major venues. It may be that when you get to stadiums, you deal with a different situation. It may be that when Mr. Rascoff puts on the next Rolling Stones show, it will be 9 out of 9 Ticketmasters. We don't know that.

What we do know is from the consumer's point of view, there is no choice. There used to be choice. Things were different. Prices were lower. The Justice Department, from that point of view, may have made a mistake.

Mr. CONDIT. I wanted to ask you to respond to—it has been said several times—I concede we have done research in Ticketmaster. They are very, very good at what they do. They seem to be professional, state-of-the-art. There is some argument, belief they are good and they have the biggest share of the market because they are good. Other people who have been in the market failed. They financially could not continue to go.

Mr. MARSH. We do not know what would have happened if Ticketron had been forced to find another buyer.

Mr. CONDIT. OK.

Mr. RASCOFF. That is an interesting question. I don't know the answer to that one. I can tell you that empirically in 1989, we put tickets on sale at some shows where we had a parallel ticketing distribution system. For a particular show, we had Ticketron selling. The simple fact of the matter is the service and the job done by Ticketmaster vastly overwhelmed the job Ticketron did. I think Ticketron failed because they did a lousy job. Not because Ticketmaster bought them.

Mr. MARSH. The issue isn't why Ticketron failed. The issue is whether Ticketmaster should have been allowed to buy up its competition and what the consequences of Ticketmaster having made that purchase are. Not only in the industry, but to consumers.

Mr. CONDIT. Ticketmaster—they were given the right and authority to merge with Ticketron. There was nothing illegal in that act. Do we agree with that?

Mr. MARSH. Isn't part of the issue whether or not that was a mistake? When the Justice Department has made such a decision, is there no recourse?

Mr. CONDIT. You have the right to make that as a point. I believe that is what Pearl Jam is doing. We hear Ticketmaster is entering into long-term exclusive contracts with stadiums and concert promoters. Is that standard practice?

Mr. MORRIS. Yes, it is. As far as I know.

Mr. CONDIT. Anyone else want to respond? Is that standard practice? Pearl Jam considers this a kickback in their brief with the Justice Department. Do you agree?

Mr. DOWNS. I don't know the legal definition of a kickback. I think an undisclosed rebate, I think, is characterized not as a term of art in the legal sense but sort of a popular—Mr. Horn asked do you consider your advance from the record company a kickback. I never thought in those terms. I think there is probably a way to construe a record company advance as a kickback. It became almost meaningless at that point.

Mr. COLLINS. I would like to comment that Aerosmith has been touring in America for over 20 years. When these long-term deals and rebates to promoters and venues started coming, we started hearing rumors of this happening, we asked a lot of our promoter colleagues we had been doing business with for many years if, in fact, they were receiving these and could we, you know, be privy to the agreements.

To this date, you know, people have until very recently, until this—all this publicity started, people have been denying, in my experience, denying that. Not many are admitting to this. Is it a kickback? Why was it being hid from the artists, from my artists in particular? I can only testify to my experience.

Mr. CONDIT. Mr. Rascoff, do you have any comment to that?

Mr. RASCOFF. No.

Mr. CONDIT. For Mr. Morris, you represent, I understand, several new popular performers. Is it your opinion, based on Mr. Collins' testimony, the new bands are being penalized by Ticketmaster?

Mr. MORRIS. I don't know if "penalized" is the right word. Obviously, as has been spoken before, this is one of the key parts of our business where there is no other competition. When like a big—one of my bands comes in and played Red Rocks Amphitheater 3 years ago, we have no choice but to use Ticketmaster.

We have no choice but to pay a certain amount, which I believe is 4 percent of the ticket sales that will be coming at the expense of the show. We have no choice to do anything. When we want to hire sound and lights that night, we have a choice to go to five or six different companies to get the best sound and best price. We have a lot of other choices. We don't have it in this field. I think that is the crux of this whole problem. Choices.

Mr. CONDIT. Does this mean that Ticketmaster, because of their surcharge penalty, is sort of deciding who goes on tour and who doesn't?

Mr. MORRIS. No. I don't think that is the case. I think there are some bands that really want to stand up for certain things like Pearl Jam that are refusing to partake. We have a right to go in there or not go in there. We don't have a choice of what ticket com-

pany to use in certain buildings, with certain promoters, in certain cities.

Mr. CONDIT. OK. I am going to defer to my colleague to my right, Mr. Horn. Then we will come back to Mr. Owens.

Mr. HORN. Mr. Chairman, it seems to me we are into an economic model here in relation to the concert industry, however defined. Do you see yourself when you are setting up a venue in, let's say, Los Angeles or Long Beach or Atlanta that you are into a regional market, a local market for that concert or a national market? What are we talking about?

Mr. DOWNS. Talking about a tour? A national market. The overall tour, 50 dates. If you are talking about an individual show, you are probably talking about certainly a local market, somewhat of a regional market. If you are the Grateful Dead, a national or international market because people travel.

Mr. HORN. I think you did an excellent job, several of you, on the interrelationship especially on the Rolling Stones tour. You need to know to make certain additional arrangements about how that group is doing. But when Ticketron was around, did they not have an exclusive monopoly in a particular arena or was Ticketron and Ticketmaster competing within the same arena? Didn't you still deal with a monopoly?

Mr. RASCOFF. I am not going to engage in what a monopoly is. I am not an attorney. I cannot answer that. If the question is before the advent of Ticketmaster, did we go into a building and we were told by the building you must distribute tickets through Ticketron, absolutely. Absolutely.

Mr. HORN. Right.

Mr. RASCOFF. That was the point I made earlier. I think Ticketmaster emerged because they devised a better mousetrap and convinced buildings they are a more appropriate party to sell tickets than the competition.

Mr. MARSH. During that period it was very common because the industry has grown exponentially each decade. During the period when Ticketron first developed, it was much more common to do tickets by straight mail order, send them to a P.O. box or sell them at the box office or in certain other record store kinds of distribution that Mr. Downs was talking about.

It was a different, you know, the highly electronic nature of our society hadn't yet evolved. It wouldn't have taken it nearly so much for granted if the majority of your tickets would be sold like that.

Mr. HORN. Mr. Marsh, would you like to go back to that period?

Mr. MARSH. Would I like to go back to that period?

Mr. HORN. Right.

Mr. MARSH. No, I see no reason to stand still or go back. I want to go forward.

Mr. HORN. You want to regulate it as a utility?

Mr. MARSH. That is one concept. Another would be to have it disgorge some of what it has absorbed and go back to a more localized group of things which has been done through congressional action in the past. For instance, in the oil industry, and as someone pointed out, in the telephone industry, the airline industry. All of those industries that have been deregulated.

And in some cases that led to the breakup of certain corporations.

Mr. HORN. What you have here, as I look at my own local arena, you have a city government that gets a percent of the gross of operations in the arena. They have a vested interest in getting, in dealing with a management that can fill the house. That is the way they are looking at it. Because if they do not fill the house, they do not get their percent of the gross. In tight municipal budgets, that means you have less police services, less fire services, so forth and so on.

So in a sense, isn't that the driving force to get simplified management, assure you have the most efficient management, monopoly or nonmonopoly; at least in your little world of that arena for which you are responsible?

Mr. MARSH. That is one model. The other model is that culture is itself a service. I think that one of the things that is going on here is there is an industry dispute about what Ticketmaster's prices are and what the right way to regulate this is within the business community.

There is another dispute, as I try to point out, which Pearl Jam has become the standard bearer for and because they are part of the industry it is confusing. Because I stand in a strange relationship to it, too, because I basically have reported on this aspect of the world my whole career. But the fact is that there are overlapping interests here.

There is an interest of the business community and what you said is entirely accurate. From the interest of the cultural community or the citizens at large, that arena may not exist simply to pay bills. It may exist to make sure that the citizens of Long Beach or wherever have access to culture.

Mr. HORN. Let me say—

Mr. MARSH. That is a valid purpose, too.

Mr. HORN. Let me say what the citizens of Long Beach feel about our arena, they resent outside groups coming in, taking all the dates so the revenue can pour into the city treasury, the promoter's treasury, whatever and they wonder why they can't get more of the dates for Civic Light Opera, Long Beach Light Opera, symphony, et cetera.

Why can't we get more provisions out of the arena? It doesn't matter if you come or not in terms of the average citizen. They would like to know why can't I see my local performing groups. They can't because the management, whether it be a high end subsidiary or whatever and all the little submanagements say, hey, the city wants us to fill this place; and the way we fill it is to get nationally known stars, which brings in an audience way beyond the boundaries of Long Beach.

Mr. MARSH. Having attended concerts at the Long Beach Civic Arena, one of the things I point out to you is from the point of view of a rock fan that lives in Long Beach is one of the things you can say is the concert industry I tried to describe the history of has existed for 25, 30 years. In this entire country of the tens, hundreds of millions of dollars that have been taken out by promoters who are in essence Mr. Rosen's and Ticketmaster's business partners, not one nickel of that money has been built to create a—has been

spent to create a purpose-built indoor rock concert facility in this country. No such thing exists. There has never been that kind of feedback to the interests of their own consumers.

Mr. HORN. Let me ask general questions. Just say yes or no, as Mr. Condit suggested.

I take it with those of you in concert management, and have done or are doing that, you have done deals with Ticketmaster? Are there any of you that have not? None?

Mr. DOWNS. We are not in concert management. Most of us up here are in personal management. We are not promoters. We do not manage concerts. We manage attractions. We are on the other side of the equation, with the artists. We do not do tickets with Ticketmaster. Look at the chart. They deal with the promoter. We represent the artist.

Mr. HORN. When Rolling Stone goes to our area, you have a local promoter worrying about that?

Mr. RASCOFF. I worry about it because it involves money and ticket prices. I worry about it a lot. Yes, there is a promoter who contracts with the building who in turn contracts with Ticketmaster. The promoter may be a national promoter as opposed to local, but that is the chain.

Mr. HORN. Am I to understand in every case none of you personally then have had to deal with Ticketmaster or have you?

Mr. RASCOFF. Deal on a contractual level?

Mr. HORN. Yes.

Mr. RASCOFF. I have not.

Mr. MARSH. I have not.

Mr. DOWNS. I have not.

Mr. HORN. None of you have? Is that correct?

Mr. DOWNS. Because of our role in the industry; that is correct.

Mr. HORN. I want to get straight where we are coming from on this.

So has Ticketmaster ever threatened to sue any of you?

Mr. DOWNS. Not yet.

Mr. HORN. The basic question we mentioned parking. Mr. Rascoff went through a litany of the other things that are there as an exclusive agent, the people that build the sets that has upset the local people when they try to get in there and have to pay very high prices. You just add it to the ticket, a very popular group if you are on tour. Do you think Ticketmaster is entitled to be paid for the service it provides? I take it the argument is over the degree to which you feel they are getting money because of their exclusive monopoly in a particular local setting?

The fact that in your judgment if you are on a national tour, from your standpoint, you think they have too many local settings which, as I listened to your testimony, that would make them a monopoly in major markets as far as you are concerned? Is that a fair statement of what you are feeling? Do you feel something different?

Mr. MARSH. Well, isn't—I just look at it this way: what is to prevent—let's say Pearl Jam wants to go out and have \$18 tickets. There is nothing, as I understand it, if they decided to work through Ticketmaster's system to prevent them from saying you can pay for \$18 a ticket. Your service charge is another \$18. We

have to amortize our expenses in working with the Justice Department on what you did. We will take it out by charging an \$18 service charge. There is nothing to prevent that.

Mr. HORN. Reality is they don't do it.

Mr. MARSH. Reality is we don't know what they are going to do.

Mr. RASCOFF. I think there is something to prevent that, Dave.

Mr. MARSH. What is it?

Mr. RASCOFF. I don't know who is in this room at the moment. If Ticketmaster charged \$18 on an \$18 ticket there are people who would say let's get together and go into the ticketing business.

Mr. MARSH. You wouldn't be able to do it.

Mr. DOWNS. How about—how would we be able to do it in terms of the Omni? Some of us want to get into the ticket industry. I don't personally. I would just as soon leave it to somebody who is good at it. Would-be entrants into the field, that is the problem with a monopoly. There are barriers to those entrants. Those barriers include the long-term contracts.

Mr. MARSH. There was a merger in the recording industry about 14 years ago that was declined by the Justice Department on exactly this basis. The recording companies of Warner Communications which is now Time-Warner and Polygram, the Dutch-German company wanted to merge. CBS Records, now Sony, protested saying that this would create an anticompetitive situation.

One of the things the Justice Department said in ruling that this merger could not go forward was that it—to create the kind of distribution system that would be eliminated would cost \$2 to \$3 billion. That was a ground for declining the merger. Interestingly enough, that was during the Reagan administration.

Mr. HORN. You rapidly get through three others that relate to Ticketmaster. The next round we can finish up.

I take it from the testimony that Ticketmaster helps in planning national tours because of the rapid data return? Now, my query to you is does Ticketmaster help in your accounting and settlements for a particular venue to make sure that you get the revenue you feel due to you?

Does it help or doesn't it?

Mr. RASCOFF. My experience is rather neutral in that area. We do not look to them.

Mr. HORN. As a promoter?

Mr. RASCOFF. Yes.

Mr. HORN. Somebody has to account for those tickets. Supposedly Ticketmaster dues to the promoter; is that the way it works?

Mr. RASCOFF. Yes. Or the building.

Mr. HORN. The building. You can go in and out on it if you think your promoter has done you in; is that correct?

Mr. RASCOFF. Of course.

Mr. HORN. So is it a useful service? In your accounting in your settlement, how much did we take in for this area?

Mr. MORRIS. My opinion absolutely is a necessary and useful service. They have been very, very good at that, actually, as far as handling of the money, accounting for the money, showing how many tickets were sold when, how, all of the—they have been very good at that.

Mr. HORN. Have they ever not paid you the money or your promoters that is in the contract? Have they ever not paid the money that was due?

Mr. MORRIS. I was a vice president of a promoting company for 10 years, although I left before Ticketmaster really blossomed. No, we never had any problem getting paid.

Mr. HORN. Have they ever paid earlier than the concert? Given you, in a sense, advance income prior to the date, full billing by your group?

Mr. MORRIS. They never paid the groups earlier. As far as I know, I think that is also in most areas, in most States, you cannot do that. I could be wrong about that.

Mr. HORN. Have your promoters ever had any say in the parking prices of the building or the concession stands in the building, to your knowledge?

Can you negotiate that? Have you ever negotiated that?

Mr. MORRIS. I think a promoter, especially a major promoter in a city that does a lot of shows, has a lot of say with buildings and certain aspects of pricing, but again it depends on the city and the promoter and on all sorts of things like competition.

Mr. DOWNS. I think the answer to whether a band through its representatives can influence a promoter and building into what the concessionaires, the facility merchandisers will charge, the answer is yes there may be limits. Some may start off charging 40 percent who are willing to come down to 30 percent on a scaled basis. Bands, I know—as has been reported, Pearl Jam did this thing, are able to influence the downward movement of facility merchandising charges.

Mr. HORN. Mr. Downs, I found your testimony very interesting. You mentioned TickExpress and SEATS. Are they still in business?

Mr. DOWNS. TickExpress went out of business. SEATS was acquired by Ticketmaster. That is my point. They are not still in business. We no longer have the choice. When we play Atlanta next time, unless something changes, we will be dealing with whatever promoter we use in Atlanta. There is no other game in town.

Mr. HORN. As I said earlier, one of the things that worries me when I go through any ticket computer system is that I am not getting the best seats. Those promoters are holding out the good seats.

Maybe if I went to the box office, they have better seats, et cetera. Is it feasible in this day of computers to allow a multiple ticket distribution system in your judgment; and is that what you would prefer to get competition into the marketplace? What is the reaction?

Mr. RASCOFF. The competition I think would not be in the sale of a particular show. I mean from my experience, it would probably be rather inefficient to have two ticket distribution companies selling tickets to the same show.

Where the competition might be very helpful and interesting is if we—there were a competitor to Ticketmaster with whom a building could negotiate for the best arrangement to sell the tickets for their shows. But that is where the competition would come in for the privilege of getting the contract for the right to sell the tickets.

Mr. HORN. Very good. Now Mr. Marsh, as a rock and roll journalist, you advocated the price regulation of concert tickets much like the utilities we mentioned.

Mr. MARSH. No, I haven't.

Mr. HORN. You haven't?

Mr. MARSH. No, I didn't say anything about price regulation. I said Ticketmaster and its service charges ought to be subject to either oversight or regulation.

Mr. HORN. In essence, a public utility to me is the telephone company or the gas company. It has a monopoly. There is a State agency that says is this a reasonable profit after your service is covered. I assume that is what you are talking about.

Mr. MARSH. Right. I was talking about Ticketmaster, not—

Mr. HORN. I am talking about the price regulation of concert tickets which you would have to do if you set the profits of that particular monopoly.

Mr. MARSH. I don't understand that, sir.

Mr. HORN. All the phone company is doing is passing on the charges to those of us who use the telephone. If you have a State regulation system and they say \$1, \$2, \$3 is a fair price for that service, they are simply going to pass it on to whatever the ticket is. You might work out a volume discount or a one purchaser who buys seven discount.

Mr. MARSH. There is a difference between deciding that the New York Yankees, to use a sports example, are going to charge \$8 for a box seat and deciding that—and regulating that; and regulating the service charge whether that should be 50 cents or another \$8. I am not talking about regulating the ticket price. You may be. I am happy to answer questions about that.

Mr. HORN. Can they avoid that now or can they if they go directly to the box office?

Mr. MARSH. In many cases—last summer, my—I had a daughter who died of cancer. We did a benefit last summer at Madison Square Garden, Bruce Springsteen was the headline attraction. Ticketmaster was the only vendor at that event that refused to negotiate a lower price. Madison Square Garden gave us a lower price. The booking agency worked free. The artist obviously worked for free. Merchandisers—which is a rare thing—worked for almost nothing, et cetera. We got major, major concessions from every concessionaire but Ticketmaster.

They wanted to sell the tickets—just a moment. We wanted to sell the tickets at the Madison Square Garden box office and we were told that we could not. Their Ticketmaster contract prevented it. So the answer I am afraid is—in my experience is no.

Mr. HORN. I am interested in your experience. To all of you, that simply I would say is it true and is it your feeling listening to your promoters as they deal with venues around the country that perhaps 80 percent of the tickets are bought by the fans at the box office, not through a computerized system, whether it be Ticketmaster or Schubert, whoever? What is the feeling on that?

Mr. RASCOFF. That is not the case with the Rolling Stones. In the case of the Rolling Stones, almost all tickets are distributed through the computerized ticketing system at outlets or by telephone.

Mr. DOWNS. When U-2 played Atlanta last year, they played a 16,000 seat arena before they came back and played the stadium. If Pearl Jam is the biggest band in the world, U-2 is up there with them. When they played, there was a volume of 2 million phone calls placed to buy 16,000 tickets. It blew the phone system out.

There aren't a lot of tickets to go buy at the box office when you walk up there at the show. That is the dynamics of the industry. It happens quickly. The show sold out in something like 16, 17 minutes once they got the phone system going. The box office thing is sort of a red herring. It is really not that much at issue.

Mr. HORN. One last question. Does Ticketmaster help reduce scalping?

A lot of fans are concerned they can't find all the sweet deals that are given by the local promoter, hoarding the tickets on very popular concerts up in the attic. Presumably, if you go through a set ticketing system, you would think and you would limit it to so many or whatever it is per tickets per person. You would put some limit on scalping. Do you feel that that is a relevant factor?

Does that concern you, the scalping of tickets?

Mr. MARSH. As I said in my testimony, experience shows Ticketmaster as opposed to Ticketron—and again I don't want to go back, I would like to go forward—Ticketron was—had a bad problem in that area, was well known among fans and well known in the industry.

One of the reasons why certain people advocated Ticketmaster early on was precisely because they do have a much, much better record in that area than their predecessor.

Mr. HORN. Any feelings?

Mr. COLLINS. In my experience, Ticketmaster has not helped with scalping. I am not accusing Ticketmaster of scalping, but I can only relate my experience. At a show at the Los Angeles Forum last year, I personally, at the request of my band, went out and interviewed with three members of my staff the entire front section of the floor. I found that every single person I interviewed had purchased their tickets from a scalper. In Philadelphia—

Mr. HORN. Did they tell you what particular scalper? Did you find out how he or she got the tickets?

Mr. COLLINS. We have a list of those. We did not find out how they got the tickets.

Mr. HORN. Kids in line? How did they get them?

Mr. COLLINS. I don't have the answer to that question, Mr. Horn.

Mr. HORN. You don't know Ticketmaster did it?

Mr. COLLINS. As I said, I am not accusing Ticketmaster. In my experience, scalping has gotten to epidemic proportions. Ticketmaster has not helped with this.

Mr. HORN. Any other comments?

Mr. RASCOFF. I think the methodology by which Ticketmaster sells tickets probably does help. I am not suggesting there is an overt aid to eliminating scalping. That is not my point. The Ticketmaster system is a "best ticket available" system.

If you have 50 outlets selling tickets, if you walk into any one of those outlets at the same moment, you will get the next best available ticket on the system. So in theory, consumers who despair of getting the best available ticket would, I think, turn to a

scalper more readily than they might if they were able to know that no matter where they went, which outlet, they would get the best available ticket. In theory, I think the system should help in the scalping problem, but I don't think that that is necessarily anything unique to Ticketmaster. It is unique to the Ticketmaster system.

Mr. HORN. Thank you, Mr. Chairman.

Mr. CONDIT. Mr. Owens of New York.

[The prepared statement of Mr. Owens follows:]

**STATEMENT OF CONGRESSMAN MAJOR R. OWENS
BEFORE THE INFORMATION, JUSTICE, TRANSPORTATION
AND AGRICULTURE SUBCOMMITTEE ON THE
TICKET DISTRIBUTION INDUSTRY
June 29, 1994**

I want to thank Chairman Condit for having a hearing that is bound to have a profound impact on every consumer in this nation. Each and every one of us here today has bought tickets for an entertainment event, and thought the tickets were overpriced, but did not know why. Now, I guess we have our answer. There is only one national agency controlling all ticket prices. The consumer, and apparently the entertainers, have only one option. Ticketmaster or bust.

As the only Librarian in Congress, I am a strong advocate of the public's right to know the truth. As I understand it, hardly any consumers are aware of how much money they pay the ticketing agency just to process the ticket because the majority of tickets are purchased over the phone by credit card. In fact, I am anxious to find out from the Ticketmaster representative exactly what the ticketing charge covers, since Ticketmaster charges the same fee if you purchase the ticket over the phone or in person.

Pearl Jam brief filed with the Department of Justice raises the even more serious question of whether Ticketmaster is unfairly using its power to ensure that entertainers accept their prices. As we have found in other industries where one large conglomerate has controlled prices -- the telecommunications industry, for example -- Federal regulations to ensure competition and consumer choice are necessary. I hope this hearing will shed more light on the steps that we as members of Congress can take to protect our constituents and ensure they are getting what they pay for.

Mr. OWENS. Mr. Chairman, I will try not to be redundant. Many of the questions I have already been asked. I learned a lot about the business. I think most of you seem to agree with the lawsuit brought by Pearl Jam. Would you say you represent the majority of the people in the industry, artists, promoters? Is that general agreement that you want to move in that direction?

Mr. DOWNS. I have a hard time conveying the depth of feeling within the industry that Pearl Jam has unleashed. I think that the mail that you all will be getting soon, the interviews the Justice Department does will bear this out. There have been a lot of people for a long time wishing that someone would fight this battle.

A troubadour friend of mine last week in Los Angeles told me they thought the appropriate thing would be to build statues of Pearl Jam. There is a lot of admiration for what they are doing. I don't think you will find very many people in the artistic end, which is what those of us up here represent, who are happy completely with the lack of competition in the industry.

Mr. OWENS. They focused on Ticketmaster, there are no other problems the artists have with the other—

Mr. DOWNS. Artists have lots of problems, sure.

Mr. OWENS. Unhappy with Ticketmaster only, promoters?

Mr. DOWNS. They are—

Mr. OWENS. A lot of people on your chart get a piece of the action.

Mr. DOWNS. Most are unhappy with attorneys and managers, too. I think the system by which—of that chart there, where everything is in a competitive relationship, when they are unhappy with somebody, they can go down the street and find somebody else. Where that breaks down is at a critical part and something important to artists, which is the price of the ticket, the service charge portion of the ticket which is controlled really in most of our experience by a single provider.

Mr. OWENS. You also mentioned several times that you wanted something similar to what happened with the telephone industry being broken up, the oil industry, antimonopoly action by the Justice Department.

Why do you think there are no competitors in this situation? The amounts of money necessary to capitalize in these other industries are tremendous. Oil and telecommunications, those are billions of dollars we are talking about.

What kind of money are we talking about in a situation like competitive for Ticketmaster? What kind of capitalization are we talking about? What kind of overall gross does Ticketmaster realize? How do you make the comparison with oil or telecommunications?

Mr. DOWNS. I don't think the ticketing industry is as big as the telephone industry or the oil industry. I cannot sit here and tell you I am an expert. I couldn't tell you how it would be done. I also don't think we can go back and undo 1991. To move back in time, that is not the idea.

There are people at the Justice Department both on the legal and economics level asking those questions. It may be at the end of the day after you guys did your hearing and Justice has done its investigation that the system that is here, it may not be perfect, may not be optimal, but as Mr. Rascoff says, it may be the best possible

system available. I think most of us don't think that is the case that may be the conclusion.

Mr. OWENS. Does anybody have an idea what Ticketmaster grossed last year?

Mr. MARSH. Mr. Horn had the numbers earlier this morning. If I remember right, it was in the \$700 million area a year; \$172 million.

Mr. OWENS. Gross is \$172 million?

Mr. MARSH. That is the number read out this morning. No.

Mr. CONDIT. Mr. Marsh, the numbers I have, Mr. Horn said \$172.

Mr. MARSH. The net was seven.

Mr. CONDIT. Seven point five as indicated on these notes.

Mr. OWENS. That was the profit?

Mr. CONDIT. You can define that as Ticketmaster can certainly clarify.

Mr. OWENS. Do you think there is some kind of illegal activity here in terms of intimidation or criminal activity that allows them to maintain a monopoly on the places where the performers perform? Is there something that they have that gives them the edge on their competitors? Any one of you? You don't think there is any illegal activity of a criminal nature? Any kind of intimidation?

Mr. CONDIT. Can we get a nod?

Mr. RASCOFF. I think the answer to that is no, from my standpoint.

Mr. MARSH. Or at least we don't know.

Mr. OWENS. We are all talking about high-tech advantages they have of being there first.

Mr. DOWNS. By being the only—

Mr. MARSH. They are not the first. Ticketron was the first. The advantage they have is that in 1991 they were allowed to buy their only meaningful competitor.

Mr. DOWNS. It has been hit on how did they get so big. It is a complex question. There are two components. One, they are very good at what they do. There is no doubt about it. They are good at computerized distribution of tickets on a national level for concerts. You can get information instantaneously.

The other thing is they were able to acquire all of their—most of their significant competition, and it has been said that they built a better mousetrap. A more apt metaphor is that they invented a better padlock.

Mr. CONDIT. Thank you, Mr. Owens.

Ms. Woolsey from California?

Ms. WOOLSEY. Mr. Chairman, I wasn't here for most of the testimony, so I will wait until the next set of questioning. Thank you very much. I think most questions have been asked and answered.

Mr. CONDIT. Thank you.

You have been a very impressive panel. We appreciate your time very much. There may be additional questions submitted to you. I hope it is OK if we can expect a response in writing. Thank you very much.

Mr. MARSH. Thank you.

Mr. CONDIT. Panel three.

Please rise and raise your right hands.

[Witnesses sworn.]

Mr. CONDIT. Let the record indicate they answered in the affirmative.

I know you both have been here for the entire hearing and you have had the patience to listen to all of this, Mr. Rosen. I appreciate that very much. You have been kind to share information with the committee. I appreciate that very much. You have whatever time you need, understanding we do have time limitations. Try to tell your story. If we run into problems, we will let you know.

Mr. Rosen is the chief executive officer of Ticketmaster, Los Angeles.

STATEMENT OF FRED ROSEN, CHIEF EXECUTIVE OFFICER, TICKETMASTER

Mr. ROSEN. First of all, Mr. Chairman, I would like to thank you for the opportunity to speak. I think what I will do rather than read my statement, which you have been given, is deal with some of the questions that you may want to ask me. I think it would be most informative to answer your questions and address some of the issues that have arisen here this morning. I think that might be most helpful in the time that I have.

To begin with, we support what Pearl Jam is trying to accomplish, keeping tickets inexpensive. We have no issue with that. We do not set ticket prices. I keep reading stories that we are responsible for the price of all tickets in America. We have nothing to do with the pricing of tickets. The acts determine their own price. Teams determine their own price. Family attractions determine their own price. We have nothing to do with that.

While we applaud their efforts, it should be pointed out that in connection with this particular matter, various promoters spoke to the group—we had no direct contact with them—and told them we would compromise on this matter. We agreed to lower our service charge to \$2.25 or \$2.50, depending upon the area.

The fact is that if Pearl Jam had been willing to “compromise”—something that this great institution of Congress is built upon—this problem might not have risen to this level today.

But, as is clear from both the band’s statements today and the memorandum they submitted to the Justice Department, they said “this is it, take it or leave it.” This unwillingness to compromise caused some of the problem.

Let me address some of the comments that have been made today, some of which I find remarkable. Dave Marsh criticized Ticketmaster for collecting parking fees. It is true that we collect parking fees. But we do not collect them for ourselves. We collect them for the building. Ticketmaster is an agent for the building and acts on its behalf, collecting fees as it determines, like parking fees.

We provide a computerized inventory control system for buildings. While most of this discussion has focused on offsite ticketing, you must understand that we provide various other functions for buildings: season ticketing, group ticketing, various accounting functions, providing arenas, venues, and teams with computer

equipment, and so on. So we do much more than just provide off-site ticketing.

Congressman Conyers mentioned earlier that he did not understand why Ticketmaster would have a service charge at a building's box office. I didn't understand that either, so I had someone call the building and find out what charge Congressman Conyers was discussing. It turns out that the building has a facility charge. This is part of the confusion of charges often attributed to us that are collected on someone else's behalf. Facility charges belong to the buildings, not to Ticketmaster.

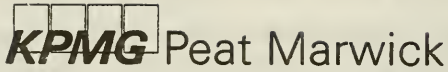
The service charges belongs to us. Facility charges, parking charges, and other charges that buildings might add onto the ticket price belong to the buildings and we, as their agent, collect those charges for them.

There are a number of issues that I want to address concerning Ticketron. In the prepared statement which we have given to all of you, there are affidavits that Ticketron filed in 1991 with the Justice Department in support of our purchasing certain assets of their company. What those affidavits show is as follows: Ticketron had lost \$2 million in 1988, \$2 million in 1989, \$7.5 million in 1990, and were projecting a loss of \$8.5 million in 1991. The fact of the matter is that in 1991 Ticketron was not a viable competitor. The Justice Department did not allow us to purchase Ticketron's proprietary software. That was purchased by a competitor of ours, the Shubert organization. All we bought were certain contracts and certain equipment.

Unfortunately, because Ticketron neglected to segregate their clients' funds from their operating accounts, if Ticketron had been allowed to file bankruptcy, the public, the buildings, the arenas, and the entertainers would have suffered a loss of somewhere between \$13 and \$16 million. Such losses would have been a black eye to the entire ticketing industry. As a result, the Justice Department allowed Ticketmaster to purchase some of Ticketron's assets.

Now I would like to address Ticketmaster's service charges.

[The information referred to follows:]



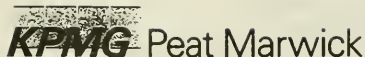
**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of
Ticketmaster Holdings Group, Ltd.)

Consolidated Financial Statements

January 31, 1994 and 1993

(With Independent Auditors' Report Thereon)



Certified Public Accountants

725 South Figueroa Street
Los Angeles, CA 90017

INDEPENDENT AUDITORS' REPORT

The Board of Directors
Ticketmaster Corporation:

We have audited the accompanying consolidated balance sheet of Ticketmaster Corporation and subsidiaries (a wholly owned subsidiary of Ticketmaster Holdings Group, Ltd.) (the Company) as of January 31, 1994 and the related consolidated statements of income, shareholder's equity (deficiency) and cash flows for the year then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit. The consolidated financial statements for Ticketmaster Corporation and subsidiaries as of and for the year ended January 31, 1993 were audited by other auditors whose report dated May 1, 1993 expressed an unqualified opinion on those consolidated financial statements.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the 1994 consolidated financial statements referred to above present fairly, in all material respects, the financial position of Ticketmaster Corporation and subsidiaries as of January 31, 1994 and the results of their operations and their cash flows for the year then ended in conformity with generally accepted accounting principles.

As discussed in note 6 to the consolidated financial statements, two subsidiaries of the Company are codefendants in legal actions, the ultimate outcome of which cannot presently be determined. Accordingly, no provision for any liability that may result from this litigation has been recognized in the accompanying consolidated financial statements.

As discussed in note 1 to the consolidated financial statements, the Company changed its method of accounting for income taxes to conform with Statement of Financial Accounting Standards No. 109.

KARYL Peat Marwick

April 11, 1994, except for
note 9, which is as of
April 15, 1994.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**
(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Consolidated Balance Sheets
January 31, 1994 and 1993

Assets	1994	1993	Liabilities and Shareholder's Equity (Deficiency)	1994	1993
Current assets:			Current liabilities:		
Cash and cash equivalents	\$ 32,238,000	\$ 30,257,000	Current portion of long-term debt	\$ 8,651,000	\$ 9,344,000
Accounts receivable, ticket sales	18,313,000	12,934,000	Accounts payable, trade	4,378,000	4,459,000
Accounts receivable, other	1,945,000	1,676,000	Accounts payable, clients	37,825,000	32,523,000
Inventory	920,000	265,000	Accrued expenses	9,918,000	8,097,000
Prepaid expenses	1,939,000	1,895,000	Deferred income	3,484,000	2,934,000
Total current assets	55,355,000	47,027,000	Total current liabilities	64,256,000	57,357,000
			Long-term debt, net of current portion	26,936,000	10,046,000
			Deferred rent and other	3,690,000	2,750,000
			Deferred income taxes	800,000	890,000
			Minority interests	7,994,000	8,820,000
Equipment and leasehold improvements:			Shareholder's equity (deficiency):		
Computer equipment	21,381,000	21,414,000	Preferred stock:		
Furniture and equipment	8,374,000	8,098,000	Series I preferred, \$.10 par value. Authorized		
Transportation equipment	822,000	699,000	15,000,000 shares; issued and outstanding 0		
Leasehold improvements	2,889,000	2,676,000	and 9,852,982 shares in 1994 and 1993,		
	33,466,000	32,887,000	respectively		945,000
Less accumulated depreciation and amortization	(16,415,000)	(13,886,000)	Series II preferred, \$.10 par value.		
	17,051,000	19,081,000	Authorized 5,900,000 shares; issued and		
			outstanding 0 and 5,700,875 shares in 1994		
			and 1993, respectively		570,000
			Common stock, no par value. Authorized		
			25,000,000 shares; issued and outstanding		
			9,147,509 shares in 1994 and 1993	474,000	474,000
Other assets:			Additional paid-in capital	11,490,000	11,490,000
Cost in excess of net assets acquired, net	2,108,000	2,857,000	Retained earnings (accumulated deficit), net of		
Other intangible assets, net	26,187,000	32,885,000	foreign currency translation adjustment	(3,398,000)	8,508,000
	28,295,000	35,742,000	Total shareholder's equity (deficiency)	(2,924,000)	21,987,000
			Commitments and contingencies		
	\$ 100,701,000	\$ 101,850,000		\$ 100,701,000	\$ 101,850,000

See accompanying notes to consolidated financial statements.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Consolidated Statements of Income

Years ended January 31, 1994 and 1993

	<u>1994</u>	<u>1993</u>
Income:		
Ticket operations	\$ 171,838,000	\$ 152,523,000
Licensing fees	2,412,000	2,392,000
Interest	1,499,000	1,483,000
Other	14,026,000	15,605,000
	<u>189,775,000</u>	<u>172,003,000</u>
Costs and expenses:		
Ticket operations	72,350,000	63,451,000
Phone center	19,927,000	18,124,000
Sales and marketing	7,161,000	7,967,000
Data processing	18,370,000	17,797,000
General and administrative	46,611,000	33,704,000
Other	815,000	848,000
	<u>165,234,000</u>	<u>141,891,000</u>
Income before depreciation and amortization, interest expense and minority interest	24,541,000	30,112,000
Depreciation and amortization	14,205,000	13,677,000
Interest expense	1,435,000	1,607,000
Minority interest	2,874,000	1,728,000
	<u>6,027,000</u>	<u>13,100,000</u>
Income before income taxes	6,027,000	13,100,000
Income taxes	4,600,000	5,600,000
	<u>1,427,000</u>	<u>7,500,000</u>
Net income	<u>\$ 1,427,000</u>	<u>\$ 7,500,000</u>

See accompanying notes to consolidated financial statements.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)
Consolidated Statements of Shareholder's Equity (Deficiency)

Years ended January 31, 1994 and 1993

	Preferred stock — all series		Common stock		Additional paid-in capital	Retained earnings (accumulated deficit)	Total shareholder's equity (deficiency)
	Shares	Amount	Shares	Amount			
Balance at January 31, 1992	18,139,295	\$ 1,814,000	9,147,509	\$ 474,000	\$ 14,177,000	\$ 4,366,000	\$ 20,831,000
Redemption of Series I preferred (2,985,438)		(299,000)			(2,687,000)		(2,986,000)
Dividends paid to preferred shareholders						(3,261,000)	(3,261,000)
Foreign currency translation adjustment						(97,000)	(97,000)
Net income						7,500,000	7,500,000
Balance at January 31, 1993	15,153,857	1,515,000	9,147,509	474,000	11,490,000	8,508,000	21,987,000
Redemption of Series I preferred stock (9,452,982)		(945,000)			(8,508,000)		(9,453,000)
Redemption of Series II preferred stock (5,700,875)		(570,000)			(570,000)		(1,140,000)
Dividends paid to preferred and common shareholders						(13,337,000)	(15,749,000)
Foreign currency translation adjustment					(2,412,000)		
Net income						4,000	4,000
Balance at January 31, 1994	—	—	9,147,509	\$ 474,000	—	1,427,000	1,427,000
						(3,398,000)	(2,924,000)

See accompanying notes to consolidated financial statements.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Consolidated Statements of Cash Flows

Years ended January 31, 1994 and 1993

	<u>1994</u>	<u>1993</u>
Cash flows from operating activities:		
Net income	\$ 1,427,000	\$ 7,500,000
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	14,205,000	13,677,000
Income allocable to minority interest	2,874,000	1,728,000
Deferred income taxes	(60,000)	(55,000)
Changes in operating assets and liabilities:		
Accounts receivable, other	(269,000)	123,000
Accounts receivable, ticket sales	(5,379,000)	(5,186,000)
Inventory	(655,000)	3,000
Prepaid expenses	(44,000)	(540,000)
Accounts payable, trade	(81,000)	1,678,000
Accounts payable, clients	5,302,000	10,674,000
Accrued expenses	1,821,000	1,016,000
Deferred income and other	1,409,000	3,205,000
Net cash provided by operating activities	<u>20,550,000</u>	<u>33,823,000</u>
Cash flows from investing activities:		
Purchase of equipment and leasehold improvements	(4,201,000)	(8,648,000)
Other intangible assets	(527,000)	(6,613,000)
Net cash used in investing activities	<u>(4,728,000)</u>	<u>(15,261,000)</u>
Cash flows from financing activities:		
Investments by minority shareholders	1,750,000	4,180,000
Distributions to minority shareholders	(5,450,000)	(3,915,000)
Proceeds from long-term debt	40,966,000	10,020,000
Reduction of long-term debt	(24,769,000)	(14,936,000)
Redemption and retirement of preferred stock	(10,593,000)	(2,986,000)
Payment of dividends	(15,749,000)	(3,261,000)
Net cash used in financing activities	<u>(13,845,000)</u>	<u>(10,898,000)</u>
Effect of exchange rate on cash and cash equivalents	<u>4,000</u>	<u>(97,000)</u>
Net increase in cash and cash equivalents	1,981,000	7,567,000
Cash and cash equivalents, beginning of year	<u>30,257,000</u>	<u>22,690,000</u>
Cash and cash equivalents, end of year	<u>\$ 32,238,000</u>	<u>\$ 30,257,000</u>

(Continued)

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Consolidated Statements of Cash Flows, Continued

	<u>1994</u>	<u>1993</u>
Supplemental disclosures of cash flow information:		
Cash paid during the year for:		
Interest	\$ 1,435,000	\$ 1,607,000
Income taxes	<u>4,743,000</u>	<u>5,053,000</u>

See accompanying notes to consolidated financial statements.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Notes to Consolidated Financial Statements

January 31, 1994 and 1993

(1) Summary of Significant Accounting Policies

General

Ticketmaster Corporation (Company) is a wholly owned subsidiary of Ticketmaster Holdings Group, Ltd. (Holdings). The Company provides automated ticketing services to organizations that sponsor events in order to allow their customers the ability to purchase tickets to those events from outlets or via the telephone.

Principles of Consolidation

The consolidated financial statements include the accounts of the Company, its subsidiaries and certain less than wholly owned joint ventures where the Company has operating control, after elimination of all material intercompany balances and transactions.

Cash and Cash Equivalents

The Company considers all highly liquid debt instruments purchased with a maturity of three months or less to be cash equivalents.

Inventory

Inventory, consisting of systems hardware and supplies, is stated at the lower of cost (specific-identification) or market.

Equipment and Leasehold Improvements

Equipment and leasehold improvements are stated at cost. Depreciation and amortization are computed using the straight-line method over the estimated useful lives of the related assets or, for leasehold improvements, the term of the lease, if shorter. When assets are retired or otherwise disposed of, the cost is removed from the asset account and the corresponding accumulated depreciation is removed from the related allowance account and any gain or loss is reflected in results of operations.

Cost in Excess of Net Assets Acquired

The cost in excess of net assets acquired is being amortized by the straight-line method over terms of up to ten years.

Revenue Recognition

Income from ticket operations is recognized on the accrual basis as tickets are sold.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Notes to Consolidated Financial Statements, Continued

Income Taxes

In February 1992, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 109, "Accounting for Income Taxes" (SFAS 109). SFAS 109 requires a change to the asset and liability method of accounting for income taxes and supersedes SFAS 96, "Accounting for Income Taxes." Under the SFAS 109 method, deferred tax assets and liabilities are recognized with respect to the tax consequences attributable to the differences between the financial statement carrying values and tax bases of assets and liabilities. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which these temporary differences are expected to be recovered or settled. Further, the effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

The Company adopted SFAS 109 as of February 1, 1993. The cumulative effect of this change in accounting for income taxes is not material to the consolidated financial statements.

Concentration of Credit Risk

The Company places its temporary cash investments principally in commercial paper with large domestic and international companies and limits the amount of credit exposure in any one company.

Translation of Foreign Currencies

Foreign assets and liabilities in the consolidated balance sheets have been translated at the current rate of exchange on the balance sheet dates. Revenues and expenses are translated at the average exchange rate for the year. Unrealized translation adjustments do not affect the results of operations and are reported as a separate component of shareholders' equity.

Reclassifications

Certain reclassifications have been made to prior year consolidated financial statements to conform with the current year presentation.

(2) Stock Transactions

The Series I and II preferred stock is entitled to receive an annual cumulative dividend of \$.12 and \$.024 per share, respectively. The Company may, at its option, redeem the outstanding Series I and II preferred stock at any time at a redemption price (liquidation preference) of \$1.00 and \$.20 per share, respectively, plus accrued and unpaid dividends. The Series I preferred stock has no voting rights, while the Series II preferred shareholders are entitled to one vote per share.

During June and December 1992, the Company repurchased 2,985,439 outstanding shares of its Series I preferred stock at a redemption price of \$1.00 per share and paid dividends in arrears of \$3,261,000. Dividends in arrears on the preferred stock outstanding at January 31, 1993 approximated \$11,887,000.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Notes to Consolidated Financial Statements, Continued

In November and December of 1993, the Company repurchased the 9,452,982 and 5,700,875 outstanding shares of its Series I and Series II preferred stock at a redemption price of \$1.00 and \$.20 per share, respectively, and paid aggregate dividends in arrears amounting to \$12,848,000.

(3) Other Intangible Assets, Net

Other intangible assets consist of the following:

	<u>1994</u>	<u>1993</u>
Purchased user agreements	\$ 22,556,000	\$ 28,673,000
Covenants not to compete	2,034,000	2,627,000
Other	<u>1,597,000</u>	<u>1,585,000</u>
	<u>\$ 26,187,000</u>	<u>\$ 32,885,000</u>

During fiscal years 1994 and 1993, the Company acquired user agreements with venues in selected geographical areas of the United States (U.S.) and the United Kingdom (U.K.). The acquired user agreements allow the Company the exclusive right in the U.S. and the non-exclusive right in the U.K. to provide ticketing services for the related venue.

The purchased user agreements and other intangible assets are being amortized generally in accordance with the contract terms: either on a straight-line basis or based upon yearly ticket sales by the facilities, including any annual minimum guarantees specified by the contract. The lives of the contracts generally range from two to ten years. The covenants not to compete are being amortized using the straight-line method over the lives of the noncompetition agreements, ranging from 2 to 25 years.

(4) Long-Term Debt

Long-term debt at January 31, 1994 and 1993 is as follows:

	<u>1994</u>	<u>1993</u>
Note payable to bank, collateralized by certain Company assets, interest at the London Inter-Bank Offering Rate (3.125% at January 31, 1994) plus the applicable margin as defined (1.75% at January 31, 1994), payable in quarterly installments through October 31, 1998	\$ 33,250,000	\$ —
Notes payable to bank, collateralized by Company assets, interest at the bank's prime rate (6% at January 31, 1993), payable at various dates through March 1996	—	10,012,000

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Notes to Consolidated Financial Statements, Continued

	<u>1994</u>	<u>1993</u>
Notes payable to bank, collateralized by Company assets, interest at the bank's prime rate (6% at January 31, 1993) plus 3/4%, payable in monthly installments through April 30, 1996	\$ —	\$ 5,812,000
Note payable to bank on \$5,000,000 revolving line of credit, collateralized by certain Company assets, interest at the bank's prime rate (6% at January 31, 1994 and 1993, respectively), payable through October 1998 and 1993, for the years ended 1994 and 1993, respectively	550,000	1,550,000
Note payable to bank on \$6,000,000 and \$8,000,000 commitment on January 31, 1994 and 1993, respectively, collateralized by certain Company assets, interest at the bank's prime rate (6% at January 31, 1994), payable through October 1998 and 1993, for the years ended 1994 and 1993, respectively	350,000	—
Note payable for acquisition of joint venture partner's interest, interest at prime rate (6% at January 31, 1993), paid in full on April 1, 1993	—	446,000
Obligation payable for assets acquired, imputed interest at 9.4%, payable in monthly installments through November 30, 1997	473,000	567,000
Obligation payable for assets acquired, imputed interest at a foreign bank's base rate, payable in equal amounts through fiscal 1995	262,000	520,000
Obligation payable on a revolving line of credit, collateralized by Company assets, interest at the foreign bank's base rate plus 1.5%, payable through April 30, 1994	174,000	223,000
Other	528,000	260,000
	<u>35,587,000</u>	<u>19,390,000</u>
Less current portion (including revolving line of credit)	<u>8,651,000</u>	<u>9,344,000</u>
	\$ <u>26,936,000</u>	\$ <u>10,046,000</u>

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

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Notes to Consolidated Financial Statements, Continued

Annual principal payments due subsequent to January 31, 1994 are as follows:

Year ending January 31:	
1995	\$ 8,651,000
1996	7,331,000
1997	7,175,000
1998	7,167,000
1999	<u>5,263,000</u>
	<u>\$ 35,587,000</u>

The revolving line of credit and notes payable to bank aggregating \$34,150,000 and \$17,374,000 at January 31, 1994 and 1993, respectively, are subject to certain restrictive covenants relating to net worth, cash flows and capital expenditures. The Company was in compliance with its restrictive covenants or has obtained the necessary waivers from its bank for the fiscal years ended January 31, 1994 and 1993.

The Company has an unused loan commitment from the bank for \$14,000,000 for funding acquisitions which expires October 1998. Additionally, the bank had issued standby letters of credit for approximately \$308,000 as of January 31, 1994.

(5) Income Taxes

As discussed in note 1, the Company has applied the requirements of SFAS 109 as of February 1, 1993. The cumulative effect of this change in accounting for income taxes is not material.

Deferred income taxes result from temporary differences in the tax and financial reporting bases of certain assets and liabilities. At January 31, 1994, the sources of these differences and the tax effect of each were as follows:

	<u>Assets</u>	<u>Liabilities</u>	<u>Total</u>
Current – state tax expense	\$ 76,000	\$ —	\$ 76,000
Noncurrent:			
Amortization of intangible assets	120,000	—	120,000
Accelerated depreciation	—	(1,013,000)	(1,013,000)
Other	—	(13,000)	(13,000)
	<u>120,000</u>	<u>(1,026,000)</u>	<u>(906,000)</u>
Subtotal – noncurrent	120,000	(1,026,000)	(906,000)
Total	\$ <u>196,000</u>	\$ <u>(1,026,000)</u>	\$ <u>(830,000)</u>

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Notes to Consolidated Financial Statements, Continued

The provision for income taxes consists of the following:

	<u>1994</u>	<u>1993</u>
Current:		
Federal	\$ 3,736,000	\$ 4,330,000
State	924,000	1,325,000
Deferred	<u>(60,000)</u>	<u>(55,000)</u>
	<u>\$ 4,600,000</u>	<u>\$ 5,600,000</u>

The differences between the statutory Federal income tax rate and the effective rate as reflected in the consolidated statements of income are attributable primarily to state taxes, non-deductible capital transaction costs, entertainment expenses and loss from foreign operations.

(6) Commitments and Contingencies

Two subsidiaries of the Company, certain licensees of the Company and certain venues and professional sporting organizations operating in Florida are codefendants in a consolidated civil antitrust class action suit filed in the Federal District Court of South Florida. The complaints allege violations of the Sherman Act, the Federal RICO Act, and multiple Florida statutes concerning the sale of off-site tickets.

The above action is in the preliminary stages, and legal counsel is unable to make a prediction of its outcome. The Company denies any liability, intends to vigorously defend the action and expects that its outcome will not have a material effect on the financial position of the Company. The consolidated financial statements do not include any amount for the ultimate liability, if any, in connection with the disposition of this matter.

A subsidiary of the Company which operates in Southern California and a licensee of the Company operating in Northern California are codefendants in a consolidated civil antitrust class action in the Superior Court of the State of California, County of San Francisco. The complaints allege violations of state unfair competition and unfair trade practices statutes and the California Cartwright Act. Each of the four consolidated actions seeks injunctive relief and treble damages.

The above action was settled in April of 1994. Certain plaintiffs have opted out of the settlement and have filed a motion for summary adjudication. The Company believes that the ultimate outcome of the disposition of these matters will not have a material adverse effect on the financial position of the Company.

The Company is involved in various other litigation and claims arising out of the normal conduct of its business. In the opinion of the Company's management, none of these proceedings will have a material adverse effect on the Company's financial position.

**TICKETMASTER CORPORATION
AND SUBSIDIARIES**

(A Wholly Owned Subsidiary of Ticketmaster Holdings Group, Ltd.)

Notes to Consolidated Financial Statements, Continued

The Company leases office space and equipment under various operating leases that expire at various dates through 2003. Future minimum lease payments are as follows as of January 31, 1994:

<u>Year</u>	<u>Amount</u>
1995	\$ 5,270,000
1996	4,866,000
1997	4,482,000
1998	4,327,000
1999	3,826,000
Thereafter	7,031,000
	\$ 29,802,000

Additional rental payments may be required for the Company's pro rata share of certain operating expenses associated with office space leases.

Rental expense for fiscal 1994 and 1993 amounted to approximately \$5,207,000 and \$6,032,000, respectively, under operating leases.

The Company, as a minority interest partner in a joint venture, has committed to contribute amounts up to \$10 million during a several-year period representing the development and early operating stages of a cable television channel.

(7) 401(k) Plan

The Company has a 401(k) plan covering all eligible employees, which contains an employer matching feature of 25% up to a maximum of 6% of the employee's contribution. The Company's contribution for the plan years ended December 31, 1993 and 1992 was \$236,000 and \$194,000, respectively.

(8) Subsequent Event

On April 15, 1994, the Company completed the formation of a joint venture with Wembley plc to develop, design and service computer ticket systems to be used in various venues including motion picture theaters, stadiums, arenas and amusements parks. Under the terms of the agreement, Wembley plc contributed certain assets of its U.S. and U.K. companies and the stock of a German subsidiary (Wembley companies), all of which have similar operations to those of the joint venture. The Company contributed \$16 million in cash for its 50% interest and the joint venture assumed certain liabilities of the Wembley companies approximating \$10 million.

The \$16 million contribution was funded by utilizing \$12 million of the \$14 million loan commitment for acquisitions (note 4), with the remaining \$4 million having been provided from operations.

Mr. CONDIT. Mr. Rosen, we have an easel over here.

Mr. ROSEN. We need to set up a couple of these charts, if we may.

Mr. CONDIT. We will try to accommodate you.

Mr. ROSEN. There has been a lot of discussion about what our service charges are and how much they have risen. I thought it would be helpful to provide you with charts which have been taken from our audited financial statements that summarize Ticketmaster's service charges.

In 1990, we sold 29 million tickets through outlets and over the phones, which provided a service charge revenue of \$78 million—the average service charge was \$2.69. In 1991, we sold 39 million tickets with a service charge revenue of \$113 million, and the average service charge was \$2.90. In 1992, approximately 145 million tickets were sold; the average service charge was \$3.02. And in 1993, 51 million tickets were sold, with an average service charge of \$3.15.

If we go back to the other chart, what you will see is that the percentage increase in Ticketmaster's service charges was less than 4 percent from 1989 to 1990; less than 8 percent from 1990 to 1991; approximately 4 percent in 1992; and approximately 4 percent in 1993. These increases are hardly outrageous, they are essentially in keeping with the rate of inflation. That is hardly monopoly pricing.

In connection with the materials we have given to you, our profit after taxes over the last 2 years has been \$7.5 million in 1992 and \$1.4 million in 1993. The numbers speak for themselves.

We built our company up from nothing by being responsive to consumers. If we were not responsive, we would not have grown. I hear a lot of talk of dissatisfaction these days with Ticketmaster as a company. But when you get 3 million call attempts in 20 minutes, there is no way you are going to answer all those calls. Last year we answered approximately 38 million phone calls, of which approximately 7.5 million resulted in orders. We are an information source for Ticket buyers and every call for the consumer is free. Every call to Ticketmaster is answered by an operator. We provide an information service at no cost to consumers throughout the markets that we serve. Even telephone companies today charge people for information. We recognize that we are in a field that is highly competitive.

What the panels—and they have all been very good—all missed was that our contracts with venues expire. Contracts have durations of 3 to 5 years. There are probably 30, 40, even 50 companies out there today that are bidding against Ticketmaster for ticketing concessions across the country.

As we move into the age of the information highway, you will see cable companies, telephone companies, computer companies, and data companies looking to enter this business. This business is highly competitive. We do not simply sell tickets to rock and roll concerts. We are a mass merchandising distribution system that serves all events: sports, concerts, family shows, theater, trade shows, ski lift tickets, et cetera. Wherever there is an admission ticket, we can provide the distribution network. In the universe of tickets sold in America today, there are approximately 1½ billion

tickets sold for live events per year, and we only sell approximately 51 million of those tickets.

Unlike many other services that provide the same product to every consumer, we can never provide everyone with the same seat. The fact of the matter is that when you sell front to back, half the people will be sitting in places they do not want to sit. So there are some problems Ticketmaster will never be able to solve.

I will be happy to respond to any of the questions you may have, and I thank you for the time you have given me.

Mr. CONDIT. Thank you, Mr. Rosen.

Next we have Ms. Rothman, the General Manager of the Los Angeles Forum in Inglewood. Thank you for being here.

**STATEMENT OF CLAIRE L. ROTHMAN, GENERAL MANAGER,
LOS ANGELES FORUM, INGLEWOOD, CA**

Ms. ROTHMAN. Thank you, Mr. Chairman.

At the risk of repeating so many things that have been discussed, I will forego the formalized statement that I wanted to make. I would like to have an opportunity to make just a few statements in answer to some of the things that have been said in an effort to clarify.

First of all, I want to commend every one that has spoken today. I think it represents sincerity in their positions and passion in the dedication that they feel about this industry.

I have been fortunate enough to be in this marvelous industry for about 27 years. So I have seen many changes, from the times that we dealt only in hard tickets where we could hardly find enough room to rack 29 performances of a circus, where men with garters around their shirt sleeves fanned tickets to their ear and very often accurately said there's 100 tickets in this pile.

A venue is a very important part of the mix that is being discussed today. We are inevitably joined because a venue needs an act, an act needs a venue, and we both need a means of selling the tickets or none of us are able to operate.

As a venue operator, contracts are very beneficial to us. We have contracts for the softdrinks that we sell. We have contracts for the food concessionaire. We have contracts about naming the building. Novelties are sold by contract.

And in answer to one of the remarks that was made, the building has nothing to do with the price that an act sells its merchandise, its T-shirts or its programs for. Those are things set by the act. So if he is interested in controlling the costs of those, he makes them less expensive.

The Forum is one place at which you can always come to buy a ticket. There is never a service charge at the Forum, and we have fought assiduously to keep it that way.

Someone made the remark this morning that there are two sides to this: the promoters, the managers, the agents on one side; Ticketmaster on the other. Well, I would like to say we are the guy in the middle.

Mr. Rascoff talked about being with the Rolling Stones since 1975. I would like to remind him and educate you to the fact that in 1975, when we had an exclusive contract with Ticketron, Mr. Rascoff decided or the powers that be decided that we would put

the Rolling Stones on sale when they made an announcement in New York at 12 noon, making it 9 a.m. in Los Angeles.

We put five shows on sale. Our box office was open from 9 a.m. until 10 p.m. that night. We had every window opened and had backup sellers. Even though the demand was there, we were unable to physically sell out all the tickets in that 1 day in that 13-hour period of time.

Another point that was brought up is how would we deal with a computerized ticket service that might charge the same thing for a service charge or a fee, a convenience fee as the price of the ticket. Well, in this case, the venue does have some power. We are in business to stay in business, to have the opportunity to continue to present the wonderful acts that are available.

Surely, as good business people, we would never allow the contract to remain in force over which we could not stop a totally unfair price.

I also remember back to mail orders, and I certainly hope we never go back to that. I remember a particular time when so much mail came that we attempted to assess the amount of orders and the number of tickets that were held in each bag, and it was determined that perhaps 14 bags of mail would sell out a particular show. So we sent all the other mail back unopened so that we didn't have to process everything and make a list of everything.

Well, our calculation was incorrect. And, therefore, we had to put some tickets on public sale. It wasn't a very fair method of distribution.

One other thing I would like to address. Mr. Collins said that at his most recent show at the Los Angeles venue, the Great Western Forum, that he questioned the people in the first several rows as to how they got their tickets. Tickets are distributed over a wide number of outlets.

There is no way that the venue, no matter how sincere we are in trying, can control the person's ultimate distribution of what they do with their six tickets that they buy. They may sell them all to somebody else. They may give some of them away. They may sell them to a broker for profit.

But I assure—I would like to go on the record that the Forum follows the directions of the promoter who, in turn, is following the directions of the act as to how the tickets go out of the Forum.

Thank you for this opportunity.

Mr. CONDIT. Thank you very much.

[The prepared statement of Ms. Rothman follows:]

STATEMENT OF

CLAIRE L. ROTHMAN

**General Manager, Great Western Forum
Vice President, California Sports, Incorporated
President, California Forum**

Before

**Information, Justice, Transportation and Agriculture
Subcommittee
of the
Committee on Government Operations**

June 30, 1994

STATEMENT CLAIRE L. ROTHMAN

The venue deals with a promoter and sometimes an agent and sometimes a manager of an act to determine the dates, the confirmation of your venue and the ticket price. Oft times, the venue can interject a thought about what the market will bear, that in comparison to other acts it's too high, it's too low, but in the final analysis, it is the act that has the power to determine the venue, the dates, and the price. TicketMaster has no voice whatsoever in determining the pricing of a ticket in our venue.

Service charges are determined by negotiation reduced to a contract, similar to contracts that we have with the food concessionaire, novelties concessionaire, not too different from the sale of signage in the building, sponsorships of a team or the building, or even the naming of the building, security contract, almost anything for services and/or products are reduced to a contract after a period of negotiation.

We have a great need for a ticketing network in a far-flung geographic area like Los Angeles. The days of small venues within neighborhoods which afforded you an opportunity to trot down to the venue, buy a ticket and return that night are long gone. Many of our patrons are traveling 40-45 miles and further to come here. There is no way they are going to come to the building, buy a ticket, go back home and return again. A network allows us tremendous speed in selling. Twenty years ago in our very building, we thought it was miraculous that we were able to sell 100 tickets a minute or 6,000 tickets an hour. Today, we almost have the capacity to sell in a minute what took us an hour twenty years ago. And just seven years before that, we were dealing in hard tickets where it took an entire box office to rack a two week stand of the circus, and where miraculous men with garters on their sleeves would take a pack of tickets that had been rubber-banded, fan them by their ear and say there's 100 tickets here.

Computerized ticketing gives us accuracy of inventory. Ticket reports are based on what's unsold; your inventory is critical so you're not paying out more money than what you've taken in. In the days when hard tickets were distributed to a few outlets, you had limited access to the inventory in different locations because the seats just weren't there. You had an expense to distribute tickets to outlets and run around all over a city and try to collect day by day the information on what had been sold. You always had the fear, that lump in your tummy, would the outlet be able to pay you. If they didn't do business, you were concerned you placed your tickets in the wrong place; if they did do business, you were concerned would they have the money to pay you. We had tremendous expense in holding ticket sales on our own property as well as selling them from the outlets. We could never sell as quickly on our property as the outlets, so we'd have to suspend sale at the outlets and the phones in order to try to guess how many tickets we needed for the people in our parking lot. There is great expense to do this. Sometimes two or three days before the sale, we had to secure the parking lot, discourage people from lining up, we certainly needed a lot of security, stamping hands, handing out numbers, we needed a great many ticket sellers, and after it was all over, success or failure, you sure had a

dirty parking lot.

A ticketing network gives us a source of research and development. From this source, we were able, in concert with TicketMaster, to customize our computer to speak to TicketMaster's computer through the use of a PC. This enabled us to pull season seats off, to charge our customers for individual sales, to have our inventory updated by TicketMaster, and to continue to sell all year long while having the ability to connect both computers so that the billing and the inventory remained accurate. Other research and development allowed TicketMaster to specialize for us a method to service our subscription tickets, which are all event tickets. We have had as many as 4,000 of these seats, so it was like owning a little theater within our own building. Some owners have the same seat for every event. With the multiplicity of events in our building, some seat holders have a different seat for hockey, another location for basketball, an entirely different location for boxing, another location for tennis, another location for concerts, family shows, or any combination thereof, and we are able to pull a ticket for an account number, and the computer knows which location that account number gets for each event.

We also have customized tickets so that when you buy a ticket at the Forum, you can identify it easily as a Forum ticket because our logo is on the face. Our equipment, and maintenance of that equipment, is done by TicketMaster.

We see little change for us since the end of Ticketron. We have the same advantages and disadvantages of dealing with the public.

There is a very interesting note. In 1967, when the Spectrum opened in Philadelphia, it was outfitted to sell all hard tickets because Ticketron and Computicket, two computerized ticketing services that were yet to emerge in the east, had not approached us. The Great Western Forum, which was at the time in December 1967 when it opened known as the "Fabulous Forum" was the first building in the United States to be totally computerized, and Ticketron was the company.

Mr. ROSEN. If I may, there was another thing I would like to raise. I received this letter this week. I will give copies to all of you.

Mr. CONDIT. We will place it in the record.

Mr. ROSEN. The letter is to me from Pam Lewis, Garth Brooks' manager. Obviously, Garth Brooks' name has been mentioned here this morning and has been mentioned in various newspaper articles as supporting Pearl Jam. However, the letter reads as follows:

I would like to send you a letter of apology and clarity regarding the recent article involving the pending Pearl Jam legal activity with Ticketmaster and my reference in the press. I made it clear to the press in our case tickets are printed with the base price and with a listing of additional surcharges so that Garth's fans would be informed. This is in keeping with the overall philosophy of this organization. We, like Pearl Jam, care greatly about the fans and are concerned about high ticket prices, whatever the cause. It is the intention of Garth for the fans to know where their ticket fees are going—the rising building costs, security, parking, et cetera.

Garth Brooks does not have a quarrel with your organization, and I hope my comments did not make it appear as though that was the case. He was not in touch with the press at all on this issue nor did he speak to anyone or give a quote to any media on this matter.

Garth has been very happy with his association with Ticketmaster. I spoke from my perspective not Garth's and I've tried to make this clear.

It is signed by Pam Lewis, and a copy was sent to Garth Brooks. I feel it is important to put that in the record.

Mr. CONDIT. At your request, that letter will be placed in the record.

[The information referred to follows:]

Doyle/Lewis
Management

June 22, 1994

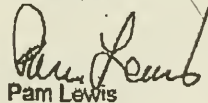
Mr. Fred Rosen
CEO
Ticketmaster
3701 Wilshire Blvd.
#74
Los Angeles, CA 90010

Dear Sir:

I would like to send you a letter of apology and clarity regarding the recent article involving the impending Pearl Jam legal activity with Ticketmaster and my reference in the press. I made it clear to the press that in our case, tickets are printed with the base price along with a listing of additional surcharges so that Garth's fans would be informed. This is in keeping with the overall philosophy of this organization. We, like Pearl Jam, care greatly about the fans and are concerned about high ticket prices whatever the cause. It is the intention of Garth for the fans to know where their ticket fees are going - the rising building costs, security, parking, etc.

Garth Brooks does not have a quarrel with your organization and I hope my comments did make it appear as though that was the case. He was not in touch with the press at all on this issue nor did he speak to anyone or give a quote to any media on this matter. Garth has been very happy with his association with Ticketmaster. I spoke from my perspective not Garth's and I've tried to make this clear.

Best regards,



Pam Lewis

cc: Garth Brooks

Mr. CONDIT. Mr. Rosen, why do you think Pearl Jam filed a complaint with the Justice Department?

Mr. ROSEN. I am not sure, sir.

Mr. CONDIT. Why do you think you are the victim in this issue?

Mr. ROSEN. Because Pearl Jam was not willing to compromise. We tried to compromise. We had various promoters contact Pearl Jam to try and reach a compromise. However, Pearl Jam attempted to dictate our service charge to us. The \$1.80 service charge was proposed to us on a take it or leave it basis. We chose to leave it. If they wanted to tour, they clearly could have done so. But we were not willing to lose money distributing tickets for Pearl Jam.

Ticketmaster is certainly an easy target to pick on.

Mr. CONDIT. Is there anybody else they should have picked on?

Mr. ROSEN. No. They should have been willing to resolve the conflict. They should have compromised. There are various ways it could have been resolved.

Mr. CONDIT. We heard this morning from the band and from others in the music industry although—you just read a letter, taking issue with their statement there is much support in the industry for Pearl Jam's position. Do you believe that is so? If you do, why? If you don't, why not?

Mr. ROSEN. I think all of us support low ticket prices. But I don't think that is the issue. Ticketmaster does not set ticket prices. I think it is commendable that the band wants to hold their ticket prices down to \$18. I have no problem with that; but we don't set the price, whether it is \$300 or \$16.

The fact of the matter is that to keep its ticket price at \$20, Pearl Jam could have agreed to a \$17.50 ticket and \$2.50 service charge or a \$17.75 ticket and \$2.25 service charge.

If you look at our profit margins, we would have lost money if we charged any less. We should not have to do something that essentially costs us money just to resolve a conflict with a rock band.

Mr. CONDIT. What is your profit margin?

Mr. ROSEN. If you look at the financial statements, we made about 10 cents a ticket, last year.

Mr. CONDIT. What is that net?

Mr. ROSEN. Last year was \$1.4 million; the year before that our net income was approximately \$7.5 million. Net income for the 2 years together was about \$9 million. And we sold approximately 100 million tickets. If you calculate it, that's about 10 cents a ticket.

Mr. CONDIT. Mr. Rosen, I use—I made reference to this amount as well. I read the paper. I have seen it in the trade publications. We are talking about handling charges \$5 to \$8, although you point out today it is \$3.15. How did we get to the \$5 to \$8?

Mr. ROSEN. I have seen service charges as high as \$15, but all that money doesn't go to Ticketmaster.

When you have a \$350 ticket sold over the phone, there is a \$15 service charge. The money collected for the ticket is divided such that: \$350 goes to the artist; \$9 to \$10 goes to the credit card company; and \$5 to \$6 goes to us.

Mr. CONDIT. Tell me about your company. How many people do you employ? Where are they located?

Mr. ROSEN. Today, we employ 4,100 people throughout America. We have regional phone rooms in 13 or 14 cities with an extremely diverse labor force. We have provided opportunities for many young people in entry-level positions in which they learn how to use PCs. We are very proud of the fact that we have been able to create so many jobs over the last decade.

Mr. CONDIT. So the total is—

Mr. ROSEN. About 4,100 people.

Mr. CONDIT. Do you consider those full-time employees or part time?

Mr. ROSEN. There is a combination of full time and part-time employees. I would say there are somewhere between 1,300 and 1,400 individuals who work full time.

Mr. CONDIT. Average salaries?

Mr. ROSEN. I don't know.

Mr. CONDIT. Do the part-time people receive benefits? They don't receive benefits?

Mr. ROSEN. Part time people do not receive benefits.

Mr. CONDIT. Out of the 4,200 employees how many are part time versus full time?

Mr. ROSEN. I think there are 2,500 or 2,700 part-time employees. I will supply you with the specific numbers.

[The information follows:]

The number of part-time employees is 2,712.

Mr. CONDIT. It is also—I guess this is something that those of us out of the industry can sort of gravitate to. We hear that, you know, the surcharge thing again, where a family comes in, buys six or seven tickets. Each one of them is charged a surcharge. Is there any merit to why they should have to pay each time for each ticket? Why don't you charge for the one transaction. Why can't you charge one service fee for the entire purchase?

Mr. ROSEN. The unit of measure in this industry is per ticket.

I think Ticketron invented the per-ticket charge. That was their unit of measurement, and it has become the industry standard.

Mr. CONDIT. OK. It also has kind of come out of this hearing as well that Pearl Jam as well as some other people here made the suggestion it would be nice if we could identify what the service or handling fee is on the ticket. I consider this truth in advertising.

I don't know if that solves the problem, but I think for some people such as the entertainer who has to get on the stage, the families that are making all the money on the ticket—it might be helpful to them, for the fans, to know what the total cost for convenience, service, or handling fees are on the ticket stub or someplace else on there. I consider this truth in advertising. Can you do that?

Mr. ROSEN. We do print the service charge on the face of the ticket.

Occasionally, there can be an all-in ticket price. I would say 99 percent of tickets that we print, however, have the service charge printed on them.

Mr. CONDIT. So is the average \$3.15?

Mr. ROSEN. Service charges vary. Sometimes the service charge is \$1.50, \$1.25. Sometimes it is \$5 or \$6. It depends on the event.

This gives me an opportunity to clarify certain misconceptions that exist in our business.

Mr. CONDIT. That's why we have you here today.

Mr. ROSEN. I appreciate that very much.

We negotiate all our contracts. The service charges are set in the contracts through arm's length negotiation with the venues for which we provide the ticketing concession.

Ticketmaster does not have the right to unilaterally set whatever service charge it wants. If we did, we wouldn't be in business very long.

Furthermore, as many of the previous panel noted, Ticketmaster is not a broker. We are not a scalper. We are not in the business of reselling tickets. We have taken a very strong stand against scalpers over the years and have tried various procedures to make sure that the tickets get into the hands of the people they are supposed to, namely the public and the fans.

Mr. CONDIT. Mr. Rosen, do you believe the Justice Department is doing a real investigation? What do you think they are going to do with the investigation?

Mr. ROSEN. I believe they are doing a real investigation.

Mr. CONDIT. OK. I will yield. Then we will come back to you, Mr. Rosen, Ms. Rothman, to my colleague from California, Mr. Horn.

Mr. HORN. Thank you very much, Mr. Chairman.

Mr. Rosen, you might have gone over this, but, just briefly, how do you set your charges for a particular venue when you negotiate the contract to be the exclusive agent? Is that a percent of what the basic ticket price is going to be?

Mr. ROSEN. No.

Mr. HORN. Is there a general policy here? Is it just what the traffic will bear?

Mr. ROSEN. No. It is certainly not what the traffic will bear. When you negotiate with an arena, their primary concern is bringing as many people to it as possible.

Ticketmaster is an extension of the box office. We are not in lieu of the box office. We are an alternative to the box office. We call it a convenience charge because you don't have to go to the box office if you choose not to. Rather, with Ticketmaster, you may choose the convenience of purchasing a ticket at an outlet or over the phone.

When we sit down and negotiate a contract, various factors are involved in it: How much equipment are we supplying? How much support does the building need? How many people do we have to put on that account? How much money in advertising and other promotional items do we need to supply? The contract is negotiated on those terms.

Mr. HORN. Is there a basic price that is in most arena managers' contracts as to what they need to recoup from you to in turn pay the city or the governmental entity that often owns these arenas?

Mr. ROSEN. We are a concessionaire in the building, sir, and every building wants to see how much they can maximize their revenue. As a result, we are contractually obligated to pay the venues consideration for the right to sell their tickets.

I might point out that the State of California in their State parks ticketing contract, which we do not have, the ticket company is re-

quired to provide financial consideration to the State in return for the ticketing concession. I think all buildings, when they sit across the negotiating table from the concessionaires want to see to what extent they can derive the maximum revenue.

Mr. HORN. Are there any venues where you also operate the ticket office at the venue?

Mr. ROSEN. You mean that we operate the box office?

Mr. HORN. The box office.

Mr. ROSEN. In a very few places we do, but for the most part each box office is operated by the venue or the owner of the venue.

Mr. HORN. Where you don't do it, what is the percent of tickets sold that comes from the box office versus Ticketmaster?

Mr. ROSEN. When you provide an inventory control system for a venue, there are various events that take place in that building. A building might have a hockey team, basketball team, family shows, concerts, wrestling. So if you add up the universe of tickets that our system generates or provides the accounting for, Ticketmaster sells somewhere in the neighborhood of 20 percent of the tickets in a major arena, maybe more for certain events than others.

Let me give you some statistics. Major league baseball last year sold 70 million tickets. We sold 5 million. The NBA sold 17 million tickets. We sold approximately 1.1 million. It is interesting in our business that as a team does better, season ticket sales go up, group ticket sales go up, mini plan and package sales go up. Thus, there are fewer tickets for Ticketmaster to sell. The better the team, the fewer the tickets.

Mr. HORN. In the venue, the building, do you have an exclusive contract with most of them to sell for all the events they are holding or just select events?

Mr. ROSEN. No. When you enter into a contract with an arena, you acquire the exclusive right to provide tickets for all the events that take place in that building.

Mr. HORN. OK. We have seen once sacrosanct fees such as those of real estate brokers, those of stockbrokers that used to be a fixed percentage change rapidly in the last few years so they are negotiated based on volume discounts and, very frankly, what the test of the market and competition will bear. Why aren't more fees in this industry negotiated or are they?

Mr. ROSEN. They are all negotiated.

Mr. HORN. But you negotiate a sort of set fee for a certain price ticket with the venue, so they know what revenue to expect from you if you have got 20 percent of their sales? How does it work?

Mr. ROSEN. You define contracts by type of event. Different events have different service charges that are negotiated, and revenue streams are determined based on the service charge.

Mr. HORN. Now, is the service charge paying the credit card?

Mr. ROSEN. In some instances, yes, in some instances, no.

Mr. HORN. How do they vary? Aren't you performing the same task for every type of ticket that crosses your box office or wherever it is?

Mr. ROSEN. No. This business was built on choice. If you don't want to pay a service charge, you go to the box office. If you want a lesser service charge, you can drive to an outlet. And if you don't want to leave your home, you can pick up the phone and call.

When you get into the phones charges, there are some interesting issues. In some instances the buildings pay the credit card fee and the service charge is lower. In instances where artists and bands come in the building and can dictate the terms of their contract, they say to the building, we don't want to pay the credit card fees. The building in turn will call us, and we adjust the service charge to reflect the credit card fee. So, there is no universal answer to your question.

Mr. HORN. Can you name some of the rock bands that do not use Ticketmaster to distribute their tickets and what percentage roughly do not use your services?

Mr. ROSEN. I don't know, sir. I don't keep track of that.

Mr. HORN. You don't really look at your potential customers?

Mr. ROSEN. We feel we have two customers. Our actual clients are the buildings. We compete for their business every time a contract comes up.

Mr. HORN. How often is that generally? Is it year-to-year, or longer, such as 5 years?

Mr. ROSEN. Contracts are typically for 3 to 5 years. The fact is that with the technology as it exists today, many facilities have the ability to do their ticketing themselves. Venues can acquire very inexpensive computer systems to provide essentially the same service we do. So the reality is that we are in a competitive environment.

Mr. HORN. What sort of competitors' service charges, what are they compared to your own? You must look at your competitors because they might be bidding against you on the next contract. How do your fees stack up with those of your competitors?

Mr. ROSEN. I think that you will find that our fees have always been competitive. When we bid for ticketing concessions, buildings want to maximize their revenue, but at the same time they want to maintain what they consider to be a fair price that people will pay for the service. When we go through this process we are competitive with the other people who bid. We provide a fair price as well as a fair return for the buildings.

Here in Washington we do not own the ticketing system, we license it. Wolf Trap, however, is ticketed by a competitor of Ticketmasters called ProTix; it is not a Ticketmaster building. So there are competitors around who clearly can do the same job we do.

Mr. HORN. I believe the chairman wanted to follow up.

Mr. CONDIT. Mr. Rosen might have responded to that. A lot of people you notice, when you say your competitors, those people who believe you have a monopoly, they want to know who your competitors are, maybe you could identify some of those. You have done that in written form, but maybe you could share that. I am sorry, thank you for yielding.

Mr. HORN. No problem.

Mr. ROSEN. Competing with Ticketmaster today are: The Home Shopping Network, Art Soft, Laser Gate, Prologue Select, Softix, and Sun Micro Systems. I could name more. There are many people that feel this is a good business to get into and we hear of new competitors on a regular basis.

Mr. HORN. If I were the chief executive of your firm I would start looking at where are the 50 major cities based on population, re-

gional population because those are your customers that are going to pay your charges and want to go to the events and assuming there is a decent forum or a variety of forums, stadiums in the area.

As you look at the 50 or 100 major cities in declining order of population—New York, Los Angeles, Chicago, so forth—how many of those do you have the exclusive contract?

Mr. ROSEN. How many of those does Ticketmaster have?

Mr. HORN. How many of those 50, 100 most populous cities do you have with the major arena the exclusive contract for ticket services?

Mr. ROSEN. I don't know, sir.

Mr. HORN. Could you furnish it for the record?

Mr. ROSEN. Certainly.

[The information can be found in the appendix.]

Mr. HORN. Obviously, what I am interested in is the degree to which you have a domination of the most obvious market for cultural services.

Mr. ROSEN. Let me give you two examples, if I may. If you go to New York, for example, we do not do the ticketing for Shubert Theaters, we do not do the ticketing for the U.S. Open, we do not do the ticketing for Lincoln Center, we do not do the ticketing for Carnegie Hall, we do not do the ticketing for the New York Mets. The New York Mets do the ticketing themselves, as do a lot of other people. There are probably a dozen other venues in New York that we don't have contracts with.

In Seattle, Pearl Jam's home, we do not have exclusive contracts with the Kingdome and the Seattle Coliseum. I can probably name about 40 buildings where we don't have exclusive contracts.

What is more, we do not have exclusive contracts with 90 percent of the promoters. In fact, we do not have contracts with two of the largest promoters in the country, Michael Cohl of CPI, who is presently promoting the Rolling Stones and is probably the largest promoter in North America, and Bill Graham Presents in San Francisco. And there are many more large promoters who we do not have contracts with either.

Mr. HORN. My last question is on the nature of these contracts you do have. Have you ever faced a lawsuit by a venue owner?

Mr. ROSEN. No, sir.

Mr. HORN. Has a venue owner ever declined to extend a contract with you?

Mr. ROSEN. Absolutely.

Mr. HORN. OK, then. So that is based on a competitive bid basis? What usually was the concern of the venue owner, you didn't seem to be delivering the crowd or the money or what?

Mr. ROSEN. Sometimes you lose contracts with venues because they want to try something new. Sometimes they want to try ticketing a different way. Sometimes we may not have been as responsive as we should be. The lesson of Ticketron was that if you are not responsive to the needs of your clients you will go out of business. There are always competitors ready to take the contracts from us if we don't remain responsive.

Mr. HORN. You said your length of contract was generally 3 to 5 years. Do you have any longer than 5 years?

Mr. ROSEN. A few. Not very many.

Mr. HORN. What are we talking about, 7 years?

Mr. ROSEN. Yes, 7 years. I don't believe there are any 10-year contracts anymore.

Mr. HORN. Thank you.

Mr. ROSEN. Certainly.

Mr. CONDIT. Thank you. Mr. Rosen, Ms. Rothman, I want to explain to you, I have to leave. I made a commitment for 12:30, and I thought we would be out of here by 12. I am going to try to get back, but I wanted to explain my absence to you, that I didn't leave because the band just left. I am clearly interested in your comments, and I want to say, Mr. Rosen, you have been very candid and very open for us when we have asked for information. You have been on the record, you haven't hidden anything, and we appreciate it very much, and I just want to acknowledge that before I leave.

I will try to get back to ask some additional questions. If I have additional questions, I will forward them to you and maybe you can respond in writing, and just so that you know, we are in the process of putting up some followup hearings, and we will ask for your participation in that. You personally won't have to be here, but your participation in that.

I just want you to excuse me and not take offense to the fact that I have to leave.

Mr. ROSEN. We appreciate the opportunity to speak, and if it would help, we would like to invite all of you, if you have the time, to come see what we do in person. I think if you see what we do it will give you some perspective on our philosophy as a company. You would be welcome at any time in any of our regional offices so that we could give you a demonstration of what it is we do.

Mr. CONDIT. I am going to leave you in excellent hands. Ms. Woolsey is going to Chair the meeting while I am gone. So thank you very much.

Mr. ROSEN. Thank you.

Ms. WOOLSEY [presiding]. I don't know if we can believe him about not following the band, but nevertheless, we will keep going and for all of our benefit probably get through this before our chairman gets back. I do have a question of you, Ms. Rothman.

Does the Los Angeles Forum not contract with Ticketmaster?

Ms. ROTHMAN. No. The Los Angeles Forum has a contract with Ticketmaster.

Ms. WOOLSEY. So in your contract you then can sell your own tickets onsite?

Ms. ROTHMAN. Well, we do sell tickets onsite.

Ms. WOOLSEY. So that is part of that?

Ms. ROTHMAN. We have two professional teams, NHL hockey and NBA basketball. We sell all our own season tickets. We sell all our own season packages. We sell subscription tickets and we sell individual tickets.

Ms. WOOLSEY. So what would you do if you had an arrangement and were not allowed to sell your own tickets?

Ms. ROTHMAN. Well, we would never enter into a contract in which we could not sell our own tickets.

Ms. WOOLSEY. Then, Mr. Rosen, that is my question, do you have some arrangements where the venue or the location cannot sell their own tickets?

Mr. ROSEN. No, Madam Chairman.

Ms. WOOLSEY. That was something I was not clear about. Mr. Rosen, what kind of recourse does Ticketmaster have if one of the talent or one of the groups chooses not to go through Ticketmaster? I mean, do you do anything about that? Have you ever threatened a venue or a group?

Mr. ROSEN. If I threatened a venue, I don't think I would be in business very long. When we had discussions with various people, we told them that we felt it would be proper for them to honor their contracts. I didn't find anything wrong with that then. I don't find anything wrong with it now.

Ms. WOOLSEY. Do you believe that service charges would be lowered if there were competition, and if so, by how much?

Mr. ROSEN. There is competition now. I think service charges have risen to the level that they have because there is competition. Because the buildings require you as a concessionaire to pay them for the rights to sell the tickets, competition among concessionaires leads to higher concession fees, which leads to higher service charges. In a lawsuit against Ticketmaster in San Francisco, the economist for the plaintiffs stated that if there was greater competition, prices would probably go up. He stated that Ticketmaster's service charges were what he would expect in a fully competitive market and that consumers had not been damaged.

Ms. WOOLSEY. What do they base that on?

Mr. ROSEN. Because the service charge is based on a competitive bid for the ticketing concession. That is the free-market system.

Ms. WOOLSEY. All right. I would like to then ask my colleague, Mr. Owens, from New York if he has some questions.

Mr. OWENS. Just one question. I have an appointment I am late for also. The terms, "kickback," and, "payoff" have been thrown around. I think you have partially answered it, but in particular what are they referring to? Are there any agreements you have with venues that—

Mr. ROSEN. That term, which a New York judge called a term of opprobrium or distaste, supposedly describes the consideration that we pay to a building contractually for its ticket concession. When I make a contract with the Meadowlands, I provide the Meadowlands with financial consideration as part of the contract to obtain the ticketing concession. Because the Meadowlands is a municipal building, the money we pay to provide the ticketing concession is a matter of public record. As a concessionaire we pay for the right to do the ticketing—it is like a royalty.

The band's attorneys have characterized this as a kickback. It is an offensive word to me because it implies that we have done something illegal. We have not.

Mr. OWENS. But it is not only in writing, it is also public?

Mr. ROSEN. Yes, it is public.

Mr. OWENS. Thank you.

Mr. ROSEN. Thank you.

Ms. WOOLSEY. Mr. Horn has a couple more questions.

Mr. HORN. Thank you, Madam Chairman. Perhaps you answered this, Mr. Rosen. I was out of the room temporarily, but in his testimony, were you here when Tim Collins spoke?

Mr. ROSEN. Yes, I was here.

Mr. HORN. Do you recall, I don't know if you had a chance to answer what he said, but let me just read it to you.

In 1989, we approached Ticketmaster at the beginning of an extended world tour at which we expected to sell millions of seats. We were seeking a volume rebate in consideration of the enormous amount of business we were doing with this company. We either wanted Ticketmaster to lower its service charge or pay some kind of rebate to the band. At a meeting I had with Fred Rosen on January 5, 1993, he responded to this proposal by refusing either of these options. Instead, Mr. Rosen suggested that if the band would allow the ticket price and the service charge to merge, to roll them into one price, he would raise Ticketmaster's charge by one dollar per ticket and split the proceeds with the band.

I told Mr. Rosen that his offer was like offering a cold man ice in the winter. His solution would make us and him more money at the expense of an already overburdened young fan.

Do you have a reaction to that description of your meeting of January 5, 1993?

Mr. ROSEN. He also testified, sir, that we put tickets on sale over the telephone 3 and 4 days in advance of them going on sale through the box office. That is not true. The fact of the matter is that when events go on sale, all tickets to the public are made available at the same time, so—

Mr. HORN. Well, is he accurate in his description of the January 5, 1993, meeting?

Mr. ROSEN. I don't particularly remember the full details of that conversation with Mr. Collins.

Mr. HORN. Are there any other types of meetings, let's say, with promoters or concert tour managers, however they want to describe local or national, where you have been willing to negotiate, put up the price in terms of Ticketmaster's charge and make a split of the proceeds with the touring group? Is this the only incident?

Mr. ROSEN. No, it is not the only incident, but primarily we deal with promoters and buildings.

Mr. HORN. So you are saying there is give in certain situations?

Mr. ROSEN. Certainly.

Mr. HORN. And that is an economic judgment?

Mr. ROSEN. That is correct.

Mr. HORN. And what the traffic will bear, to be honest about it, depending on the price, isn't it?

Mr. ROSEN. It is not what the market will bear. In many instances, the market will bear much more than what people are prepared to charge for a ticket. As I said before, we see ourselves as a mass merchandising distribution system. Some people have suggested that we should have a one-price ticket, like an airline does, and there shouldn't be any fee, so we have experimented with that.

Mr. HORN. Well, I am on the Aviation Subcommittee and I must say I have been confused by the airline pricing system, too. Pearl Jam claims that they have been boycotted by Ticketmaster. This question is to Ms. Rothman and you also, Mr. Rosen, obviously.

The cancellation of the Pearl Jam tour resulted in lost revenues for venues. One would imagine that those venues would be angry with Ticketmaster for this loss of income. On the theory that it is easier to replace a ticket service agency than a stadium or an

arena, one would think the venues would be furious with Ticketmaster. Is that the case, Ms. Rothman.

Ms. ROTHMAN. Well, in this case we were not fortunate enough to be on Pearl Jam's tour, so I can't really address myself to what happened.

Mr. HORN. But have you seen similar situations at all where anybody that uses you on any regular basis feels that they have been boycotted by Ticketmaster?

Ms. ROTHMAN. In my 20 years at the Forum, I have never had that experience.

Mr. HORN. And Ticketmaster has been the agent over that period?

Ms. ROTHMAN. No, they have not. We had a contract in 1967 when the building first opened, we were the first building in the country to be totally computerized, and our computerized system was with Ticketron, and we remained with Ticketron until, I believe, 1983 when Ticketmaster came in.

Mr. HORN. Then you moved to Ticketmaster?

Ms. ROTHMAN. Yes.

Mr. HORN. What were the basic reasons you had for making that change?

Ms. ROTHMAN. A very interesting set of reasons. We had an extreme desire to have the technology to allow our computers to talk with Ticketmaster's computers so that when we billed our season seat holders and our subscription seat holders, that we would automatically get our statements, and our inventory would decrease automatically rather than having to handle two inventories.

Ticketron really didn't have any interest in helping us pursue this and had put it off for a couple of years. With the emergence of Ticketmaster, they said they would dedicate themselves to that end, and, in fact, between 18 months and 2 years after they came aboard we did achieve that end, and it has been copied.

Mr. HORN. So they met your need. Now, when does their contract come up with you? Is it a 3 to 5-year contract?

Ms. ROTHMAN. Yes.

Mr. HORN. Is there anyone that competes for that business when the contract is up?

Ms. ROTHMAN. Well, I recently had a conversation with someone in a ticketing business that came to call upon me and said they would like to come again when our contract nears its end. We always listen.

Mr. HORN. Well, do you feel there is sufficient competition in the market, in this case the Los Angeles region, which would include probably four counties or five in your case, so that you can get the best deal you want from the ticketing agency, whether it is Ticketmaster or a rival company? Do you feel that you have only one person to make a deal with, one entity, namely Ticketmaster and all the others are inferior?

Is it a matter of service? Is it a matter of price, et cetera? I would think a lot of these issues would be of concern to you?

Ms. ROTHMAN. Well, I approach this much as I approach all the other contracts that we deal with. Am I getting the kind of service that I want? Are they putting out to the public the face I like? Are they doing the job? Are they maintaining what I have and supply-

ing new equipment and new technology as it goes along? Putting all those things in, all those elements in, and adding a source of loyalty to someone that you have dealt with, much as my food concessionaire or the person that has named the building, I say I can negotiate a good deal with a fair return, and they are performing their service admirably, then I have no reason to feel that I would be better off if someone else were knocking at my door.

Mr. HORN. As a venue manager, are all of you venue managers organized in a national association?

Ms. ROTHMAN. Yes, we are. It is called the International Association of Arena Managers.

Mr. HORN. So when you get together and talk shop, you talk about the type of services you have. What do you hear about Ticketmaster when you go to these meetings? Do they seem to have satisfied customers?

Ms. ROTHMAN. Well, I think you find a fair abundance of people that are satisfied and continue to go on for the very reasons that I set out before you, and you will always find people that have some dissatisfaction. You will find people that will make a complaint about a phone room or a complaint about how quickly the lines were dissipated at the outlets, and that is what keeps your purveyor on his toes if he listens to your complaints and addresses himself to them.

Mr. HORN. Now, did you ever have Ticketron?

Ms. ROTHMAN. Yes, we did.

Mr. HORN. Up to 1983, was it?

Ms. ROTHMAN. From 1967 to 1983.

Mr. HORN. Ticketron, I gather from your testimony, simply didn't meet your needs and didn't update the equipment, the software, so forth, is that basically the case?

Ms. ROTHMAN. But it was not true all of the time. It was true within the last 5 years, I would say, that we were under contract with them. We still had the same equipment as when we opened the building.

Mr. HORN. Had they been taken over by another firm and is that the reason they didn't update the equipment, they were just trying to milk the system?

Ms. ROTHMAN. No, it was the same firm.

Mr. HORN. Well, then, we see what happened to them. That is what happens in the American enterprise system. You go out of business if you don't satisfy your customer. Thank you, Madam Chairman.

Ms. WOOLSEY. Thank you, Mr. Horn. Well, we will bring this to a close in just a minute. I want to talk a minute about ticket brokers. Do you ever, Mr. Rosen, hold blocks of tickets back, or Ms. Rothman, and distribute them through ticket brokers?

Mr. ROSEN. No, Madam Chairman.

Ms. ROTHMAN. No, Madam Chairman.

Ms. WOOLSEY. OK. So then where does all this come when we hear about scalpers? I mean there are such things, I have a group of children in my family from 27 to 33 years old, and they go to a lot of events. They experience scalpers, and if they don't get a ticket they can always get one through one.

Mr. ROSEN. May I share a story with you?

Ms. WOOLSEY. If you would like.

Mr. ROSEN. Scalping and brokers are of concern to all of us. In California resale of tickets is legal, and the ticket brokers are very diligent. They round up people to stand in line. I have seen them bring people by buses to outlets.

There was a very famous artist who was doing five shows at a competitor of Ms. Rothman's venue, and we scrambled the seats so that the tickets were randomly dispersed. The tickets were \$18, and there was a \$3 service charge, so four tickets were \$84. This young lady was so excited because she was going to see her hero, and she walked out of the outlet with tears in her eyes.

When the girl walked out of the store, there was a scalper standing there. He looked at her and asked, "Where are you sitting little girl," and she said, "Second row, third night." The scalper offered, "\$1,000." She said, "No." He offered, "\$1,250." She said, "No." He said, "\$1,500." She said, "No." Then he looked at her and said, "Little girl, two grand is a lot of money." She took the money.

The fact of the matter is in a lot of the cities, the pressure on young people when they get good tickets is tremendous. There are only so many good seats, and there are people willing to pay for them. The brokers know that.

Ms. WOOLSEY. First of all, that young woman shouldn't have done it just for being called little girl.

Mr. ROSEN. No, I didn't mean it like that.

Ms. WOOLSEY. But second of all, what is the role you are playing to prevent this? Is Ticketmaster doing anything to stop this?

Mr. ROSEN. I think that is a very good question, Madam Chairman. We catch brokers and scalpers, and we take them to the local authorities. In today's world, however, it is very difficult to get anybody to prosecute a scalper. The police don't regard this as a real crime. They regard this as a victimless crime. I can't tell you how many times that we have sat with attorneys general, different law enforcement agencies, and different regulatory bodies to try and address this problem, but everybody prioritizes what they view as important issues, and they don't see this as that compelling.

Ms. WOOLSEY. Ms. Rothman, you looked like you wanted to respond to that, too.

Ms. ROTHMAN. The building spends hundreds of thousands of dollars in an attempt to control the scalping because they have a myriad of other effects on the building. If the tickets aren't sold in advance, they are roaming around through your parking lot. They are often sold by unsavory people in the parking lot who intimidate your customers.

If you have tickets left to be sold, your inventory sits in the box office while they are selling in the parking lot. So it has been something that I have worked on since the day I came to the Forum, and I have seen all of that money and all of my efforts not result in any more control but of a business that grows year after year, and when I have an opportunity to travel somewhere else to a major event, I can pick out the scalpers in the lot because I have become so well acquainted with them over the years, so it is a multimillion, billion-dollar business.

All we can hope to do is control it. Yes, they have no risk. We have the risk. They have no risk.

Mr. ROSEN. Madam Chairman, our company helped Garth Brooks in pursuing an antiscalping and antibroker law in Tennessee. Our counsel has also often worked with various State agencies, both in drafting these laws and trying to work with them to police this infraction.

Ms. WOOLSEY. OK, good. Mr. Horn, do you have any other questions?

Mr. HORN. No.

Ms. WOOLSEY. Well, we would like to thank you for coming and being here through the entire hearing, and we may have some additional questions in writing, and we will hold this hearing open for an additional week and thank you. The hearing is adjourned.

Mr. ROSEN. Thank you for the opportunity to speak.

Ms. ROTHMAN. Thank you.

[Whereupon, at 1 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

[Additional information submitted for the record follows:]

ADDITIONAL INFORMATION SUBMITTED BY NED S. GOLDSTEIN, VICE PRESIDENT AND
GENERAL COUNSEL, TICKETMASTER

Pursuant to your request, and to my discussions with Mark Brasher of your office, I have compiled a list, for the top 50 populated cities in the United States (per the 1994 World Almanac), of various venues with which Ticketmaster does and does not do business on an exclusive basis.

As Mr. Brasher and I agreed, the list is not exhaustive, but rather it details several of the more well known or larger venues in each city, indicating where Ticketmaster has an exclusive ticketing agreement with said venues for outlet and telephone sales. The list was compiled in response to your request, as no such list existed prior to your request.

Please note that while Ticketmaster may not have an exclusive contract with a particular venue, in certain instances it may still be the ticketing agent for an occupant of the venue. For example, in Buffalo, New York, Ticketmaster does not have an exclusive contract with the Buffalo Memorial Auditorium, however, it does the ticketing for the Buffalo Sabres who play their home games at such venue.

I think you will agree that the list is factual proof that many of the allegations against Ticketmaster are unfounded and spurious.

If you have any questions or comments regarding the enclosed, please do not hesitate to contact me.

Exclusive Contracts

NEW YORK, NEW YORK (1)

Stadiums:

Shea Stadium	No
Yankee Stadium	No
Giants Stadium	Yes
Downing Stadium	No
National Tennis Center	No

Forums, Major Arena, etc.:

Madison Square Garden	Yes
Byrne Meadowlands Arena	Yes
Nassau Coliseum	Yes
Carnegie Hall	No
Shubert Theatres	No
Lincoln Center	No

LOS ANGELES (2), LONG BEACH (32), CALIFORNIA

Stadiums:

Rose Bowl	No
Los Angeles Coliseum	Yes
Dodger Stadium	No
Anaheim Stadium	No
Santa Barbara County Bowl	No

Exclusive Contracts—Continued

Forums, Major Arena, etc.:	
Great Western Forum	Yes
Anaheim Arena	Yes
LA Sports Arena	Yes
Hollywood Bowl	No
Long Beach Arena	Yes

CHICAGO, ILLINOIS (3)

Stadiums:	
Soldier Field	No
Comiskey Park	Yes
Wrigley Field	Yes
Dyche Stadium	No
Forums, Major Arena, etc.:	
Rosemont Horizon	Yes
Poplar Creek	Yes
World Music Theatre	Yes
Chicago Civic Opera House	No
Chicago Orchestra Hall	No

HOUSTON, TEXAS (4)

Stadiums:	
Astrodome	Yes
Rice Stadium	No
G. Raleigh White Stadium (Texas A & M)	No
Butler Stadium	No
Forums, Major Arena, etc.:	
Summit Arena	Yes
G.R. Brown Convention Center	No
Astro Arena	Yes
Houston C.C.C. Coliseum	No

PHILADELPHIA, PENNSYLVANIA (5)—NONE ¹

SAN DIEGO, CALIFORNIA (6)

Stadiums:	
Jack Murphy Stadium	No
Aztec Bowl (SD State)	No
Lake Elsinore Diamond	No
DeVore Stadium (Southwestern College)	No
Forums, Major Arena, etc.:	
San Diego Sports Arena	Yes
San Diego Convention Centre	Yes
Starlight Bowl	No
Embarcadero Marina South	No

DETROIT, MICHIGAN (7)

Stadiums:	
Tiger Stadium	Yes
Pontiac Silverdome	Yes
University of Michigan Stadium (Ann Arbor)	No
Forums, Major Arena, etc.:	
Cobo Arena	Yes
Joe Louis Arena	Yes
Palace of Auburn Hills	Yes
Pine Knob	Yes

DALLAS, TEXAS (8)

Stadiums:	
Texas Stadium	No
Cotton Bowl	No
Forums, Major Arena, etc.:	
Starplex Amphitheatre	Yes
Reunion Arena	No

PHOENIX (9) and TUCSON (33), ARIZONA

Stadiums:	
Sun Devil Stadium (ASU)	No

Exclusive Contracts—Continued

Arizona Stadium (U of A)	No
NAU Skydome	No
Peoria Sports Complex	Yes
Scottsdale Stadium	No
Forums, Major Arena, etc.:	
Veterans Memorial Coliseum	No
America West Arena	No
ASU Activity Center	No
McKale Center	No
Tucson Convention Center	No

SAN ANTONIO, TEXAS (10)

Stadiums:	
Alamodome *	No
Forums, Major Arena, etc.:	
Hemisfair Arena *	No
Sunken Gardens	No

SAN FRANCISCO (14)/OAKLAND (39)/SAN JOSE (11), CALIFORNIA—NONE ²

INDIANAPOLIS, INDIANA (12)

Stadiums:	
Bush Stadium	No
Hoosier Dome	Yes
I.U.P.U.I. Stadium	No
Forums, Major Arena, etc.:	
Market Square Arena	Yes
Deer Creek	Yes
Hinkle Fieldhouse	No

WASHINGTON, D.C. (19)/BALTIMORE, MARYLAND (13)—NONE ³

JACKSONVILLE, FLORIDA (15)

Stadiums, Forums, Major Arena, etc.:	
Gator Bowl	No
Florida Theatre	Yes
Jacksonville Coliseum	Yes
Jacksonville Civic Auditorium	Yes

COLUMBUS, OHIO (16)

Stadiums:	
Ohio Stadium	No
Cooper Stadium	Yes
Forums, Major Arena, etc.:	
Polaris Amphitheatre	Yes
St. John Arena	No

MILWAUKEE, WISCONSIN (17)

Stadiums:	
Milwaukee County Stadium	No
Wisconsin State Fairgrounds	No
Camp Randall Stadium (Madison)	No
Lambeau Field—Green Bay	No
Forums, Major Arena, etc.:	
Bradley Center	Yes
Alpine Amphitheatre	Yes
Marcus Amphitheatre	Yes
Dane County Expo Center	No

MEMPHIS, TENNESSEE (18)

Stadiums:	
Liberty Bowl	No
Forums, Major Arena, etc.:	
Pyramid/Mud Island	Yes
Mid South Coliseum	Yes

* Note: An exclusive contract with the City of San Antonio is currently being negotiated.

Exclusive Contracts—Continued

BOSTON, MASSACHUSETTS (20)

Stadiums:

Fenway Park	No
Foxboro Stadium	Yes
Alumni Field (BC)	No
Harvard Stadium	No
Fiton Field (Holy Cross)	No

Forums, Major Arena, etc.:

Boston Garden	Yes
Centrum (Worcester)	Yes
Great Woods F/T Performing	Yes
Tanglewood	Yes
Boston Opera House	No

SEATTLE (21)/TACOMA, WASHINGTON

Stadiums:

Seattle Center Memorial Stadium	No
King Dome	No
Husky Stadium	No
Cheney Stadium	No

Forums, Major Arena, etc.:

Seattle Center Coliseum	No
Tacoma Dome	Yes
Puyallup Fair Grandstand	No
Hec Edmundson Pavilion (UW)	No

EL PASO, TEXAS (22)

Stadiums:

Sun Bowl Stadium	No
Special Events Center at UTEP	No

Forums, Major Arena, etc.:

El Paso County Coliseum	Yes
El Paso Con. Center Hall	Yes
McKelligon Canyon Amphitheatre	No

NASHVILLE/DAVIDSON, TENNESSEE (23)—NONE ⁴

CLEVELAND, OHIO (24)

Stadiums:

Cleveland Municipal	No
Jacobs Field	Yes
Rubber Bowl (Akron)	No

Forums, Major Arena, etc.:

Gateway	Yes
Blossom	Yes
Playhouse Square Center:	
Palace Theatre	No
State Theatre	No

NEW ORLEANS, LOUISIANA (25)

Stadiums:

Superdome	Yes
Ted Gormley Stadium	No

Forums, Major Arena, etc.:

UNO Lakefront Arena	Yes
Audubon Zoo Amphitheatre	No
Marconi Meadow	No

DENVER, COLORADO (26)

Stadiums:

Mile High Stadium	No
Folsom Field (Boulder)	No
Falcon Stadium (Colorado Springs)	No
Hughes Stadium (Ft. Collins)	No

Forums, Major Arena, etc.:

McNichols Arena	No
Coors Event Center (Boulder)	No

Exclusive Contracts—Continued

Denver Coliseum	No
Red Rocks Amphitheatre	No
Fiddler's Green Amphitheatre	Yes
AUSTIN, TEXAS (27)—NONE ⁵	
FORT WORTH, TEXAS (28)	
Stadiums:	
Amon G. Carter Stadium	No
Forums, Major Arena, etc.:	
Tarrant Co. Convention Center	No
Will Rogers Memorial Coliseum	No
OKLAHOMA CITY, OKLAHOMA (29)—NONE ⁶	
PORTLAND, OREGON (30)—NONE ⁷	
KANSAS CITY, MISSOURI (31)	
Stadiums:	
Arrowhead Stadium	No
Kauffman Stadium	No
Forums, Major Arena, etc.:	
Kemper Arena *	No
Municipal Auditorium	No
Sandstone	Yes
ST. LOUIS, MISSOURI (34)—NONE	
Stadiums:	
Busch Stadium	No
Forums, Major Arena, etc.:	
Riverport Amphitheatre	No
Keil Arena	No
St. Louis Arena	No
CHARLOTTE, NORTH CAROLINA (35)	
Stadiums:	
American Legion	No
Forums, Major Arena, etc.:	
Charlotte Coliseum	Yes
Blockbuster Pavilion	Yes
Grady Cole Center	No
ATLANTA, GEORGIA (36)	
Stadiums:	
Atlanta Fulton Company Stadium	No
Forums, Major Arena, etc.:	
Georgia Dome	Yes
The Omni	Yes
Lakewood Amphitheatre	Yes
Fox Theatre	Yes
Chastain Park	No
Atlanta Civic Center	No
Georgia World Congress Center	No
NORFOLK/PORTSMOUTH/NEWPORT NEWS, VIRGINIA BEACH, VIRGINIA (37)	
Stadiums:	
Harbor Park	No
Forums, Major Arena, etc.:	
Scope	Yes
Hampton Coliseum	Yes
ALBUQUERQUE, NEW MEXICO (38)—NONE ⁸	
PITTSBURGH, PENNSYLVANIA (40)	
Stadiums:	
Three Rivers Stadium	Yes
Pittsburgh Stadium	No

* Ticketmaster has an exclusive agreement with the City to operate the facility box office on the City's behalf, but does not have an exclusive facility agreement with the City for outlet and telephone sales.

Exclusive Contracts—Continued

Forums, Major Arena, etc.:	
Pittsburgh Civic Arena	No
Star Lake Amphitheatre	Yes

SACRAMENTO/STOCKTON, CALIFORNIA (41)—NONE⁹

MINNEAPOLIS AND ST. PAUL, MINNESOTA (42)

Stadiums:	
HHH Metrodome	No
Municipal Stadium	No
Forums, Major Arena, etc.:	
Target Center	Yes
Met Center	No
Williams Arena	No
St. Paul Civic Center	Yes

TULSA, OKLAHOMA—(43)—NONE

Stadiums:	
Oral Roberts Univ.—Johnston Stadium	No
McClain Stadium	No
Webster Stadium	No
Lafortune Stadium	No
S.E. Williams Stadium	No
Univ. of Tulsa—Skelly Stadium	No
Forums, Major Arena, etc.:	
Tulsa P.A.C.—Chapman Music Hall	No
Reynolds Amphitheater	No
Expo Square—Pavilion	No
Tulsa Convention Center Arena	No
Oral Roberts Univ.—Mabee Center	No

HONOLULU, HAWAII (44)—NONE

Stadiums:	
Aloha Stadium	No
Forums, Major Arena, etc.:	
Neal Blaisdell Center—Concert Hall	No
Neal Blaisdell Center—Waikiki Shell	No
Neal Blaisdell Center—Arena	No

CINCINNATI, OHIO (45)

Stadiums:	
Riverfront Stadium	No
Nippert Stadium	Yes
Forums, Major Arena, etc.:	
Riverfront Coliseum	No
Riverbend	Yes

MIAMI, FLORIDA (46)

Stadiums:	
Joe Robbie Stadium	Yes
Orange Bowl	No
Miami Baseball Stadium	No
Forums, Major Arena, etc.:	
Miami Arena	Yes
AT & T Amphitheatre	No
Gusman Center for the Performing Arts	Yes

FRESNO/VISALIA, CALIFORNIA (47)—NONE¹⁰

OMAHA, NEBRASKA (48)

Stadiums:	
Music Hall	Yes
Orpheum Theater	Yes
Univ. of Nebraska—Fieldhouse	No
Univ. of Nebraska—Al Caniglia Field	No
Rosenblatt Stadium	Yes
Forums, Major Arena, etc.:	
Aksarben Coliseum—Arena	No



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Exclusive Contracts—Continued

Omaha Civic Auditorium	Yes
TOLEDO, OHIO (49)	
Stadiums:	
Univ. of Toledo—Glass Bowl Stadium	No
Forums, Major Arena, etc.:	
John F. Savage Hall	No
Masonic Auditorium	Yes
Toledo Sports Arena	Yes
BUFFALO, NEW YORK (50)	
Stadiums:	
Rich Stadium	No
Forums, Major Arena, etc.:	
Buffalo Memorial Auditorium	No

¹The entity operating in Philadelphia, Pennsylvania as "Ticketmaster", is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Philadelphia, Pennsylvania.

²The entity operating as "Bass Tickets" in San Francisco, Oakland and San Jose, California, is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in San Francisco, Oakland or San Jose, California.

³The entity operating as "Ticketmaster" in Washington, D.C. and Baltimore, Maryland is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Washington, D.C. or Baltimore, Maryland.

⁴The entity operating as "Ticketmaster" in Nashville/Davidson, Tennessee is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Nashville/Davidson, Tennessee.

⁵The entity operating in Austin, Texas as "Ticketmaster", is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Austin, Texas.

⁶The entity operating as "Ticketmaster" in Oklahoma City, Oklahoma is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Oklahoma City, Oklahoma.

⁷The entity operating as "G.J. Joe's Ticketmaster" in Portland, Oregon is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Portland, Oregon.

⁸The entity operating as "Ticketmaster" in Albuquerque, New Mexico is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Albuquerque, New Mexico.

⁹The entity operating as "Bass Tickets" in Sacramento and Stockton, California is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Sacramento or Stockton, California.

¹⁰The entity operating as "Bass Tickets" in Fresno and Visalia, California is not owned, operated or managed by Ticketmaster Holdings Group or its affiliates. It is merely a licensee of the "Ticketmaster System" and mark Ticketmaster Holdings Group and its affiliates do not have any exclusive ticketing contracts with any stadiums, arenas, etc. in Fresno or Visalia, California.

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