The Government Takes On Ticketmaster

0:01

hi everybody it's Sabrina before we

0:04

start today we wanted to invite you to

0:06

something special the Tribeca Festival

0:08

is starting a brand new annual Gala to

0:11

celebrate excellence in audio for this

0:15

the inaugural year they've chosen to

0:17

celebrate the daily we know you our

0:20

incredible audience live all over the

0:22

world but we'd like to invite you to

0:24

join us the gala is in New York on June

0:27

9th at 5:00 p.m. you can get all the

0:30

details and buy tickets at

0:33

tribecafilm.com

0:35

thedaily that's tribecafilm.com

0:40

thedaily I'll Be There Michael too along

0:43

with a bunch of us from the show Mo

0:45

Rocka is going to host it so if you're

0:48

in the area or you're visiting we'd love

0:50

to see you there okay on with today's

0:55

show from the New York Times I'm Sabrina

0:58

Tavern and this is the

1:01

da I have got a bone to pick as usual

1:05

with Ticket Master the biggest problem

1:07

that I have right now is not getting

1:09

tickets to the aor Loading loading

1:11

loading when I'm so bad when I'm so bad

1:13

when I'm so bad oh nope I looked at my

1:15

account and the tickets are

1:17

[Music]

1:19

gone over the past few years few

1:22

companies have provoked as much anger I

1:24

cannot afford $1,500 tickets among music

1:28

fans oh my God as Ticket Master I

1:32

literally hate Ticket Master like there

1:34

is no company I think I hate more than

1:37

Ticket Master Ticket Master a to look in

1:40

the mirror and say I'm the problem it's

1:44

me last week the Department of Justice

1:46

announced it was taking the company to

1:49

court today my colleague David McCabe on

1:53

how the government's case could reshape

1:56

America's multi-billion dollar live

1:59

music industry

2:03

it's Thursday May

2:05

[Music]

2:07

30th so David good to have you back you

2:10

have become a beloved guest at the daily

2:13

because the government keeps bringing

2:15

these huge Anti-Trust cases and we keep

2:17

turning to you to explain them well it's

2:19

a pleasure to be back and today I have a

2:22

question for you which is what was the

2:23

first concert you ever went to oh my

2:26

gosh the first concert I ever went to oh

2:28

my God I think it was van

2:30

in the 1980s which maybe is before you

2:33

were born you know no comment but that's

2:36

a pretty good first concert and the case

2:40

that we're here to talk about today is

2:41

actually all about shows like a Van

2:43

Halen concert in 1980 okay I'm ready so

2:47

let's get into it this case as you and I

2:51

both know is about Ticket Master so tell

2:54

us about this case so anyone who attends

2:57

concerts regularly or even irregularly

3:00

probably knows about Ticket Master it's

3:03

kind of the ubiquitous digital box

3:05

office and those people are probably

3:07

also familiar with the ubiquitous fan

3:09

complaints about Ticket Master that the

3:12

company puts High fees that they don't

3:14

entirely explain onto tickets that

3:16

tickets will sell out really fast during

3:18

these sort of frantic pre-sales for

3:21

tours and that the website doesn't

3:23

always work very well and probably the

3:26

most infamous Ticket Master incident in

3:28

recent memory was a couple years ago

3:30

when the pre-sale began for Taylor

3:33

Swift's massive irus tour and fans got

3:37

locked out couldn't get tickets and were

3:38

absolutely Furious and it really put in

3:41

the spotlight the power of this company

3:44

over the ability to buy a ticket to a

3:46

live music event so the doj is pointing

3:49

the finger at this company for all this

3:52

consumer angst at Ticket Master well and

3:54

when you say this company it's not just

3:56

Ticket Master it's the company that owns

3:58

Ticket Master

4:00

called Live Nation entertainment we'll

4:02

say Live Nation for and it's a giant

4:05

compan and to think about just how

4:07

gigantic and how expansive Live Nation

4:10

is I think it's helpful to think about

4:11

The Fan Experience of going to a

4:16

concert it starts with buying a ticket

4:18

and maybe you buy a group of tickets for

4:20

you and your friends and then one of

4:22

your friends can't make it they got

4:23

other plans you resell their ticket so

4:26

you can make your money back and then

4:28

the day of the show you go it's this big

4:30

production it's at a venue someone has

4:32

booked the artist to appear you go you

4:34

buy a beer you have a good

4:37

time Live Nation is involved in many

4:41

parts of that process and that starts

4:44

with being a major concert promoter

4:47

they're the one putting it on arranging

4:48

the event they're also selling the

4:50

tickets through Ticket Master sometimes

4:52

they're also involved in reselling the

4:53

tickets when your friend can't make it

4:56

and not only that they actually

4:57

sometimes manage the artists and they

4:59

owe or operate the venues where the show

5:01

is happening so even down to that beer

5:04

you're drinking to enjoy with the show

5:07

they might be involved in picking the

5:08

person who sells that beer to

5:11

you so basically they're everywhere

5:14

they're everywhere and the justice

5:16

department says that's a big part of the

5:18

problem that its power is bad for

5:21

fans good morning earlier today the

5:24

Department of Justice and we really

5:26

heard that come through at the press

5:28

conference last week that the F at hell

5:30

to announce this case people always

5:32

remember the first time that they were

5:34

transformed by live music where Mark

5:37

Garland the Attorney General really

5:39

personalized this issue I still remember

5:42

as a senior in college going to a Bonnie

5:44

rate

5:45

concert he told this story about going

5:47

to Bonnie rate concert in college mer

5:50

Garland did yeah mer Garland did I don't

5:52

think a Amic Garland and Bonnie R

5:53

together in the same sentence well

5:54

apparently in college he attended a

5:56

Bonnie R show and the thing he

5:58

highlighted was that the opener was a

6:00

young Bruce Springsteen we all know that

6:03

we had just seen the future of rock and

6:06

roll and in that story the Attorney

6:09

General seems to be getting at two

6:11

important threads of this case the first

6:13

is that concerts are formative for the

6:14

people who attend them and the second is

6:18

that concerts are an important way that

6:20

artists reach their fans that young

6:22

Bruce Springstein went on to now be one

6:24

of the biggest touring artists in the

6:26

world the justice department filed this

6:29

lawsuit on behalf of fans who should be

6:31

able to go to concerts without a

6:33

monopoly standing in their way we have

6:36

followed this lawsuit on behalf of

6:38

artists who should be able and so the

6:40

justice department is responding here to

6:42

a feeling that Live Nation this giant

6:45

company has become a gatekeeper for both

6:47

artists and fans and that has allowed it

6:50

to pay artists less sometimes but also

6:53

charge fans those fees that they're so

6:55

mad about it is time for fans and

6:58

artists to stop paying the price for

7:01

live Nations

7:02

Monopoly thank

7:04

you so help us understand how things

7:07

have gotten to this point where Live

7:09

Nation is so powerful that the doj feels

7:12

they need to sue them well this company

7:15

has a long history of tangling with the

7:17

justice department and that really

7:19

starts in 2009 when Live Nation and

7:22

Ticket Master announced that they're

7:24

going to merge and this merger this big

7:27

corporate deal will marry live nation's

7:30

concert promotion business the business

7:32

of putting on shows with Ticket Masters

7:35

experience as an online ticketing

7:38

platform and the justice department a

7:41

big part of its job is looking at

7:42

corporate mergers to figure out if they

7:44

will substantially lessen competition in

7:47

the economy so the justice department

7:49

reviews this merger and in 2010 decid we

7:54

will let this merger go through but we

7:55

do have some concerns that it might

7:57

reduce competition in the industry

7:59

ticketing and so we're going to reach a

8:01

legal settlement with Live Nation and

8:03

Ticket Master that puts conditions on

8:06

the deal that requires the company to

8:09

sell some assets to kind of lessen its

8:11

footprint and so the merger goes through

8:14

and that creates the sort of modern-day

8:16

Live Nation tick Master Combination so

8:19

the government ultimately actually just

8:21

lets it happen that's right they put

8:23

conditions on the merger But ultimately

8:26

they let it go through and the company

8:28

continues to tank with the justice

8:30

department over the next 15 or so years

8:33

but mostly they keep getting bigger they

8:36

keep growing their footprint across this

8:38

ecosystem that creates some of the

8:41

biggest concert tours in the country so

8:43

just how big has the company actually

8:45

become give me some numbers well let's

8:47

start here every year they sell about

8:50

600 million tickets 600 million tickets

8:52

that's more than the number of people in

8:54

the United States of America yeah and

8:56

that is a global number but it's a lot

8:57

of tickets right the Department of

9:00

Justice estimates that in the United

9:01

States Live Nation controls about 80% of

9:05

ticketing to Major venue concerts W

9:08

right so that's a big percentage they

9:10

also own or control like in excess of

9:13

250 venues including a big percentage

9:17

the Justice forment says of major

9:18

amphitheaters the kind of big outdoor

9:20

concert venues that are ultimately kind

9:22

of in between a night club and and the

9:24

size of like a big football stadium and

9:27

they manage hundreds of artists they

9:29

have this direct relationship with

9:31

artists and so this company is wide and

9:34

it is deep into this industry MH so

9:37

ultimately the justice department says

9:39

that and I'm going to quote here it's

9:41

the quote gatekeeper for delivery of

9:43

nearly all live music in America today

9:47

okay it's big but as we know from other

9:51

doj cases and this is something that you

9:53

have taught me David the cases you know

9:56

against Apple and Google just being big

9:59

is not in and of itself a problem that's

10:02

right where companies run a foul of the

10:04

law is when they use their power as a

10:07

monopoly against their competitors in

10:10

order to stay powerful or get more

10:15

powerful and the justice department says

10:17

that Live Nation has built a complex

10:20

machine to do just that

10:23

[Music]

10:30

we'll be right

10:33

back so what does the doj say that Live

10:36

Nation is able to do because it is so

10:39

big how does it use its bigness so the

10:42

most prominent allegation is that Live

10:45

Nation uses its power as a concert

10:48

promoter to entrench its power in

10:51

ticketing as a reminder when you put

10:54

together a concert a promoter works with

10:57

an artist to book the show they book The

10:59

show at a venue and that venue for all

11:02

of its shows has to choose a ticketing

11:05

provider right a digital box office

11:07

where people can buy their way into the

11:09

shows right and what the justice

11:11

department is arguing here is that Live

11:14

Nation is able to wield its big artists

11:17

the tours that it

11:19

promotes as a cudel to force venues to

11:23

use Ticket Master its ticketing surface

11:26

so the justice department says that in

11:28

an instance in which a venue switched

11:30

away from using Ticket Master that Live

11:33

Nation routed tours around that venue

11:37

which of course means less money for

11:39

that venue and a problem for their

11:41

business interesting so basically Live

11:43

Nation saying look if you want Taylor

11:45

Swift in your little Amphitheater over

11:47

there you're going to have to use Ticket

11:49

Master it's Ticket Master or no Taylor

11:51

Swift that is effectively the behavior

11:54

of the justice department is arguing has

11:56

happened here they're saying that like

11:59

Nation does this in veiled ways and that

12:01

more importantly it's really understood

12:05

by venues throughout the industry that

12:06

if you don't use Ticket Master that you

12:08

really risk out on losing important Live

12:11

Nation managed tours and then once these

12:13

venues do choose Ticket Master Live

12:15

Nation locks them into these long

12:17

exclusive ticketing contracts which can

12:19

last for as long as 14 years 14 years

12:22

that's pretty long what else is doj

12:25

alleging that Live Nation has done

12:27

another thing the justice department

12:28

says Live Nation does is use its power

12:31

as an owner of venues to get away with

12:34

paying artists less money for their

12:35

tours so how does that work basically

12:38

the argument is that because Live Nation

12:40

controls so many of certain types of

12:43

venues that there are instances in which

12:45

an artist tour might largely be

12:47

dominated by live nation-owned venues

12:50

and the justice department is saying

12:51

that Live Nation knows that artists

12:52

don't have a lot of other options for

12:55

where to play their concerts and as a

12:57

result is able to pay those artist less

12:59

because there's not competitive pressure

13:01

when they're booking those tours that

13:04

seems pretty unfair to artists who would

13:07

really benefit from other venues owned

13:10

by other people competing for them and

13:12

that's exactly what the justice

13:13

department is saying that artists lose

13:15

out not just fans and there's a striking

13:18

story in the complaint that I think

13:20

crystallizes how the justice department

13:23

sees these streams of power coming

13:26

together

13:27

[Music]

13:32

and it concerns a concert which the

13:33

lawsuit doesn't name in 2021 my

13:36

colleague Ben Cesario has reported that

13:38

it was a Kanye West concert featuring

13:41

Drake it was a benefit show and it was

13:42

taking place at the LA Coliseum in Los

13:45

Angeles

13:47

okay one of the companies involved in

13:49

putting on this show was a firm called

13:51

TEEG they do promotion and ticketing of

13:54

the kind that Live Nation does and the

13:57

government says that live

13:59

saw this as a threat that they saw this

14:01

company TEEG involved in this show and

14:04

they were worried about what it would

14:05

mean for them and that they then

14:08

undertook steps to put pressure on TEEG

14:11

and make their life difficult in a

14:12

couple

14:13

ways the first was that TEEG had reached

14:16

a deal to sell some tickets according to

14:18

the complaint through StubHub StubHub is

14:21

a secondary resale Market you know you

14:23

can buy tickets to shows when people

14:25

aren't going to use them right and

14:27

competitor to Ticket Master right and

14:29

competitor to Ticket Master and the

14:31

justice department says that Live Nation

14:33

found out about that and said well we

14:36

have the exclusive ticketing contract

14:38

for this venue and so we will make sure

14:41

that if you bought your ticket on stuff

14:43

Hub you won't be allowed to come in to

14:45

this show really like they couldn't come

14:47

into the concert well and ultimately the

14:50

complaint says that StubHub had to work

14:52

with Ticket Master to fulfill the

14:54

tickets that had already been sold that

14:56

they stopped selling new tickets and

14:57

that hundreds of people who bought their

14:58

ticket tickets on StubHub didn't get

15:00

into the show that seems very unfair

15:02

like they bought a ticket well and

15:04

according to the justice department it

15:05

didn't stop there that Live Nation used

15:08

its industry connections to pressure an

15:10

investor in TEEG this company that it

15:13

viewed as a threat and that it pushed

15:16

that investor to pull back from its

15:18

relationship with TEEG which obviously

15:20

would have weakened this potential

15:24

competitor so these are very strong

15:28

armed tactics what is the doj saying is

15:31

the result of all of this like what does

15:33

all of this amount to it says that all

15:36

of this adds up to higher fees for

15:38

consumers and a worse product a worse

15:41

quality ticketing experience when fans

15:43

go to buy because Live Nation doesn't

15:46

have to compete with anyone it doesn't

15:47

have to innovate in response to

15:49

competitors so among other things the

15:52

justice department wants to break this

15:53

company up at the very least by

15:55

separating Ticket Master the ticketing

15:57

unit the box office unit from the rest

16:00

of Live Nation that does all these other

16:01

things promotes concerts owns venues Etc

16:04

so in other words go back to the way it

16:06

was in the beginning yeah or as much as

16:08

you can and why does that fix the

16:11

problem well the justice department

16:13

doesn't say a lot on this point but it's

16:16

clear that what they want to do with

16:17

this lawsuit is disrupt this cycle where

16:20

live nation's power reinforces itself

16:23

again and again and again and what does

16:25

Live Nation say in response I imagine

16:30

they disagree with all of this they do

16:32

they've said a lot and they start out by

16:34

saying something that will be familiar

16:35

to you because other companies that have

16:37

been accused of antitrust violation say

16:39

it as well which is that they don't fit

16:40

the profile of a monopoly okay that

16:43

their overall profit margins are lower

16:45

than those of companies like meta or

16:47

Apple or Google and that even if you

16:50

look at Ticket Master specifically they

16:53

take a smaller percentage of every sale

16:56

than a lot of other digital platforms so

16:58

they say basically the numers show that

17:01

we don't have the kind of power you

17:03

would normally associate with a

17:05

monopoly and then they say listen we

17:08

know that there are things that fans

17:10

don't like about the ticketing

17:12

experience there may be fixes to those

17:14

but largely it's not live nation's fault

17:18

they say they say that artists generally

17:21

set the prices they want people to pay

17:23

for tickets really so artists themselves

17:25

do it right that artists sign off on how

17:27

much a ticket will cost to their shows

17:30

uhhuh and they also say that demand

17:33

sometimes drives ticket prices up if

17:34

there are more people who want to see a

17:36

show than there are seats or standing

17:38

room to see that show the prices will be

17:40

higher and finally they say that there's

17:42

this kind of pricious outside force of

17:45

scalpers people who resell tickets that

17:47

use Bots to Hoover up way more tickets

17:49

than they could possibly use and then

17:51

resell them at a higher price and so

17:52

they say that all these things may

17:54

contribute to a fan experience that

17:56

people don't like but that it's not

17:58

necessarily live nation's fault I mean

18:01

to me this makes certain sense I guess

18:03

if you think of you know a Taylor Swift

18:04

show and lots of people trying to buy

18:06

tickets you know one reason why those

18:08

tickets are expensive is not necessarily

18:11

because there's something nefarious

18:12

going on but because lots of people want

18:14

to buy tickets and there's a market and

18:16

you know supply and demand has a role

18:17

here well and a clear question here that

18:21

I have that other people have asked is

18:23

how much does the justice department

18:25

think ticket prices have gone up because

18:27

of this alleged Live Nation

18:29

and the justice department hasn't

18:31

answered that question they haven't

18:32

disentangled it with all of the other

18:34

stuff that's around Market forces

18:36

everything that's right and there's

18:38

another element of live nation's

18:39

response that we should mention which is

18:41

that the company basically says this

18:43

lawsuit is politically motivated that

18:46

this Administration the Biden

18:47

Administration is bringing lawsuits that

18:49

don't hold a lot of water but are anti-

18:52

business that's what Live Nation is

18:53

saying I mean it does sort of ring true

18:56

in some sense right this has been the

18:59

tilt of this Administration toward

19:01

cracking down on big companies the doj

19:04

has changed in this respect they're

19:06

filing a lawsuit to break up a merger

19:09

that a previous doj had actually

19:11

approved well you're right this

19:14

Department of Justice this

19:15

Administration more broadly has a

19:18

different view about antitrust they

19:20

think that antitrust law can be a more

19:23

expansive tool to address problems in

19:26

the economy and they've put that into

19:28

practice practice they've sued Google

19:30

for violating anti-monopoly laws they've

19:31

sued Apple for violating anti-monopoly

19:33

laws but I think ultimately what they

19:35

believe is that they're responding to a

19:37

change in the economy that these

19:40

companies have gotten much bigger that

19:42

they have gotten more powerful and they

19:45

are responding to the way the companies

19:47

broke the law on their way to becoming

19:49

that

19:50

big so David when you and I talked about

19:53

Google and apple you referenced them

19:55

here you know we talked about how were

19:59

broad repercussions for the future on

20:01

American

20:03

society what would you say the

20:06

implications are in this case this case

20:10

ultimately for the justice department is

20:12

about the market for culture and

20:14

creativity you know a few years ago the

20:17

justice department successfully blocked

20:20

penguin randomhouse a big publisher from

20:22

buying Simon and Schuster another

20:24

publisher and they said that one problem

20:27

with this merger was that it would

20:29

reduce how much authors got paid and

20:32

that it would create a market where

20:33

fewer books and fewer types of stories

20:35

broke through this justice department is

20:38

embracing an idea that the more

20:41

concentrated the economy gets the more

20:44

it stifles creative expression the

20:47

ability of artists to make art and get

20:50

it to the public and the ability of the

20:52

public to consume it and that they say

20:55

is a central question of democracy

20:59

because things like music are how we

21:02

talk about big social issues or big

21:04

political issues so that is they say

21:08

what's at the heart of this case that it

21:09

is not just about the fees it's not just

21:11

about how much an artist gets paid but

21:14

it's about whether or not there is a

21:15

fair Marketplace for ideas and whether

21:18

or not consumers are able to access

21:21

[Music]

21:24

it David thank you thank you

21:28

[Music]

21:33

we'll be right

21:36

[Music]

21:42

back here's what else you should know

21:44

today on Wednesday Supreme Court Justice

21:48

Samuel Alo declined to recuse himself

21:50

from two cases arising from the January

21:53

6th 2021 attack on the capital after the

21:57

times reported that Flags displayed

22:00

outside his houses appeared to support

22:03

the stop the steel movement in letters

22:05

to democratic members of Congress who

22:07

had demanded his recusal Justice Alo

22:10

said that the flags at his home in

22:12

Virginia and a beach house in New Jersey

22:16

were flown by his wife Martha Anne and

22:19

that he had had nothing to do with

22:22

it and a group of 12 New York jurors

22:26

deliberated for more than 4 hours in the

22:29

final stretch of the criminal trial of

22:31

Donald Trump in which the former

22:33

president is accused of falsifying

22:35

business records the jurors asked for

22:38

portions of the testimony from two

22:40

witnesses to be read back to them as

22:42

well as the judge's instructions they

22:44

were then dismissed for the day and will

22:46

resume deliberations

22:51

[Music]

22:55

today today's episode was produced by

22:58

Will Reed Rob zipco and Michelle Banja

23:02

it was edited by Michael benois and

23:04

Brendan clink BG contains original music

23:08

by Maran Lozano Dan Powell and will Reed

23:12

and was engineered by Alyssa Moxley our

23:15

theme music is by Jim brunberg and Ben

23:17

Lanser of wonderly

23:20

[Music]

23:35

that's it for the daily I'm Sabrina

23:38

Tavern see you tomorrow

23:46

[Music]