

REFERENCE RELATING TO THE ANTICIPATED MERGER BETWEEN TICKETMASTER ENTERTAINMENT, INC AND LIVE NATION, INC

Statement of issues

The reference

1. Our terms of reference require us to consider the anticipated merger of Ticketmaster Entertainment, Inc and Live Nation, Inc. The inquiry group (the Group) must decide:
 - (a) whether arrangements are in progress or contemplated which, if effected, will result in the creation of a relevant merger situation; and
 - (b) if so, whether the creation of that situation may be expected to result in a substantial lessening of competition (SLC) within any market or markets in the UK.
2. To enable it to do this, the Group will consider the following issues.

Market definition

3. Ticketmaster and Live Nation both operate in the live entertainment industry. Ticketmaster provides primary ticketing services to venues and promoters of entertainment events, including music, theatre, sports and museums. Ticketmaster also provides secondary ticketing services, enabling the resale of tickets. Live Nation operates live music and theatrical venues, and promotes live music events, both at its venues and at venues owned or managed by other parties. Live Nation also provides music agency services.
4. The Group will consider for which levels of the supply chain we need to define the economic markets affected by the merger. In defining the relevant markets, the Group will consider both product and geographic dimensions, and will take into account the feasibility of both supply- and demand-side substitution.

Assessment of the competitive effects of the merger

5. Within each relevant market, the Group will consider the possible competitive effects of the proposed merger compared with the counterfactual (ie the situation that would arise in each relevant market in the short to medium term if the merger does not occur).

Counterfactual

6. To determine the appropriate counterfactual, the Group will consider what is likely to happen in the relevant markets in the absence of the proposed merger, including the effect of CTS Eventim (CTS) starting to provide primary ticketing services in the UK. The Group will then consider what competitive effect, if any, the proposed merger would have against that counterfactual.

Theories of harm

7. In order to focus our analysis of the competitive effects of the merger, the Group has identified three principal ways in which the merger might result in an SLC, which it will investigate further:
- (a) *Horizontal effects in the provision of primary ticketing services.* As a result of the proposed merger, Live Nation might make less use, or no use, of CTS's services as a ticket agent, and CTS might decide not to enter the UK market, resulting in fewer providers of primary ticketing services compared with the counterfactual. Alternatively, CTS might remain in the UK but as a less effective competitor than it would otherwise have been. We will need to consider the effect of the merger on the concentration of providers and whether it will lead to higher prices, and/or lower levels of service or innovation, than would otherwise be the case.
 - (b) *Vertical effects arising from the foreclosure of promoters and/or venue operators.* As a result of the proposed merger, Ticketmaster might refuse to supply its services, or supply them on worse terms, to promoters other than Live Nation and/or to venues other than those operated by Live Nation, and, as a large provider of primary ticketing services, Ticketmaster might fully or partially foreclose all other promoters and venue operators. Ticketmaster might also be able to provide Live Nation with commercial information which would enable Live Nation to have a competitive advantage over other promoters and venue operators. We will need to consider the ability, incentives and effects of Ticketmaster and Live Nation to engage in these practices.
 - (c) *Vertical effects arising from the foreclosure of providers of primary ticketing services.* As a result of the proposed merger, Live Nation might use Ticketmaster for all its primary ticketing services and, as a large promoter and venue operator, Live Nation might fully or partially foreclose all other providers of primary ticketing services. We will need to consider the ability, incentives and effects of Live Nation and Ticketmaster to engage in these practices.
8. These theories of harm are not mutually exclusive and the identification of these theories of harm does not preclude the Group from finding an SLC on another basis following further work by us or the receipt of additional evidence. The Group has not yet reached any conclusions.

Related competition issues

9. Among the issues the Group will consider when deciding whether any of the theories of harm set out above are likely to be realized (and whether the merger may be expected to result in an SLC in any relevant market compared with the counterfactual) are:
- (a) the nature and extent of competition in any of the relevant markets;
 - (b) whether and, if so, to what extent Ticketmaster and Live Nation have market power in any of the relevant markets in which they operate;
 - (c) the ability and incentive of other existing or potential competitors to undermine any price increases or reductions in service levels by the combined entity following the proposed merger;
 - (d) the extent of barriers to entry or expansion in the relevant markets;

(e) customer-related matters such as:

- (i) the ease with which customers can switch between participants in the relevant markets;
- (ii) how prices paid by customers are determined;
- (iii) the relative importance to customers of price and non-price factors; and
- (iv) the extent of buyer power in the relevant markets;

(f) the effect of any capacity constraints in the relevant markets; and

(g) factors relating to the likelihood of coordination following the merger.

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