

Opening Remarks
Senate Judiciary Hearing
Sal Nuzzo, Senior Vice President
The James Madison Institute

Mr. Chairman, members of the committee...I would like to thank you for the honor and opportunity to appear before you this morning.

My name is Sal Nuzzo, and I serve on the policy team at The James Madison Institute in Tallahassee, Florida. We are a non-profit think tank that focuses on economic policy issues impacting Florida's 22 million residents.

Florida is home to 13 major sports teams, in addition to 15 MLB spring training facilities, NASCAR, F1, the PGA, LPGA, college, and numerous other sports venues. Most of those stadiums also serve as concert sites when not in use during their respective seasons.

In Florida - sports and live entertainment is a \$6.5 billion market, a sizable share of the \$133 billion national impact.

This issue is important to Floridians – not only with respect to primary ticketing but also the secondary market, which I would like to open with.

I would like to offer our perspective by way of a quick analogy.

Because I am an employee of a not-for-profit organization, I drive a 15-year-old Volvo approaching its 200,000th mile driven. God bless the Swedes. I purchased it from a private seller in 2015, and much to my kids' dismay, it's still going strong. Volvo didn't place restrictions on the vehicle when it was first purchased, and if/when I decide to sell it, Volvo will likely have no role in the transaction. In fact, I really don't think they have any clue what's happened with the car since it left their dealership.

This is true for just about every automobile manufacturer. Consequently, our auto market is a robust, thriving, diverse industry largely adhering to supply and demand forces.

The same could be the case for the market governing the marketing, selling, and resale of tickets to sports, competitions, concerts, etc. It could be - but it has not occurred.

There is one dominant market player, with more than 80 percent of the primary market. This allows them to leverage their dominance through service fees, exclusivity requirements, and other practices that are ultimately borne by consumers.

At its core, a debate is happening over what a person actually obtains when they purchase a ticket. Some would argue that the purchaser is simply leasing or renting a space in a venue, and that lease is subject to terms and conditions. In our opinion, that logic rests on a misguided assumption that the commodity is the venue.

Ask anyone attending a Jaguars game, or a Harry Stiles concert where they are going, and they'll reply "I'm going to the Jags game," or "I'm going to see Harry Stiles." They would not reply with "oh I am going to TIAA Bank Field today" or "just taking my daughters to Amway Arena this evening."

The stadium may have a lifespan of 50 years, but an individual purchases a commodity with a very limited lifespan - a couple of hours. That distinction is vital to the debate over the issues within the event ticketing market.

Over the past several years, we have heard the term Consumer Welfare Standard used with greater frequency. Questions over whether the Standard is still applicable in today's innovation economy, whether or not it should be revised or replaced with some other subjective measure, and in the age of tech platforms what consumer welfare even means.

I would ask you all to set that aside for today. In this area, we would contend that consumer welfare is clearly defined and reflective of the issues within the industry.

Those representing the dominant player would contend that their growth has allowed them to innovate and make advances that greatly benefit consumers.

A few million Taylor Swift fans would disagree.

To be clear, from our perspective, the issue isn't the Taylor Swift crash per se. That merely revealed how a lack of competition over time has corroded innovation and distorted the market.

I would ask - suppose a robust, vibrant, and competitive market for ticketing had been allowed to evolve and innovate over the past 20 years. Would the Taylor Swift debacle have occurred? It's a hypothetical of course - but one worth considering.

I'll conclude my remarks with a call to you as policymakers. On this topic, in this area, consumer welfare is very clear to define, and there are clear harms to consumers from anticompetitive practices.