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How the Dysfunctional Ticketing Market Harms Artists & Fans – And What Can Be Done to Fix It

At the NIVA '23 conference in Washington, D.C., live event experts convened to discuss solutions for a flawed system.

BY TAYLOR MIMS





Fix the Tix Panel at NIVA. Taylor Mickal

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A whole generation of live music fans is being trained to expect the worst when it comes to purchasing tickets for concerts, according to National Independent Venue Association (NIVA) president **Dayna Frank**.

“It’s imperative to the future of live music, especially for the emerging class and the emerging artists, to be able to make buying a ticket and going to a show at even club level venues easy and simple,” Frank said at the NIVA ’23 conference in Washington, D.C. “It’s devastating what we’ve trained young people to expect when they go buy a ticket: how hard it is, you’ve got to be online at a certain time, you might not get it, you might pay \$85 when there are \$25 tickets available.”

Frank was speaking on the panel “Fix The Tix: How We Stop Predatory Ticketing Practices from Harming Fans and Artists,” which was held at The Anthem on July 10. Appearing alongside her was Lyte CEO **Ant Taylor**, who agreed with Frank’s assessment of the bleak ticket-buying process for music fans in 2023.

“The thing that we forget about or that we frequently don’t talk about is that on the other side of all this bulls— is the fan,” said Taylor. “How many fans aren’t even coming to an onsale anymore because they’ve given up because of all the points of friction?”

Since concerts restarted following COVID-19 lockdowns, obtaining tickets for high-profile artists like Taylor Swift and Beyoncé has become a game of

uncertainty and chance due to factors including bots, unscrupulous brokers and high demand from fans who have waited years to see their favorite artists. And while neither of those superstars will have their livelihoods affected by ticketing issues, smaller artists, venues and promoters in the live music ecosystem can be severely impacted, particularly by brokers who scoop up tickets and place them on the secondary market at markedly higher prices. Because fewer fans are willing to buy tickets at those higher prices, post-pandemic “no-show” rates — or the percentage of people who buy tickets but don’t attend a show — have remained frustratingly high.

“I don’t know how many folks are tracking how many of their tickets are on the secondary markets the day of the show, but we’ll easily see 20-30 tickets just sitting there, unsold,” said Frank, who also owns famed independent venue First Avenue in Minneapolis.

Frank stated that a common no-show rate was around 7% prior to the pandemic. Now, even though no-shows have gone down from their pandemic high, independent venues are continuing to see rates of 12-15% regularly. That means fewer bar and merch sales, which can often be the revenue that makes or breaks a show for small artists and venues.

The current state of concert ticketing in the United States was a major concern for attendees of the second annual conference that hosted independent venues, promoters, agents and ticketers from July 9-12 in the nation’s capital. The “Fix the Tix” panel focused on issues facing the ticketing industry and possible solutions — many of which can be found in the Fix the Tix Act NIVA is lobbying for the federal government to pass. The legislation would ban the sale of speculative tickets (tickets that brokers don’t have in their possession) and the use of bots, as well as require up front pricing and caps on resale prices while providing funds for enforcement.

“The Fix the Tix proposal says that promoters and artists should be able to put terms and conditions on the tickets as they transfer hands,” said Frank, who added that brokers have been lobbying the federal government to make non-transferable tickets illegal for well over a decade. The brokers’ argument, according to Frank, is that they own a ticket and have the right to do anything

they want with it — but live music professionals believe the ticket is actually a license, she says.

“That ticket can change hands 25 times, but ultimately the product is the show that we’re responsible for,” Frank continued. “As the people responsible for the product, we should be able to have terms and conditions on this license... Our product involves people coming into our houses which we are legally responsible for. We have to have oversight of how those tickets are transferred.”

Fellow panelist **Frank Riley** of High Road Touring agreed. “The only way to put this genie back in the bottle is to regain control of who’s in charge of the ticket, and that’s been the artist and the promoter,” said Riley. “Any other solution that’s out there will not work.”

Riley said that putting a cap on how much a ticket can be resold for would be a major hit to brokers on the secondary market. “If you eliminate the profit motive out of the secondary market [as we know it], it will disappear,” he said.

As NIVA, the National Independent Talent Organization, Universal Music Group and many other music industry entities who have signed on to the Fix the Tix legislation are fighting for federal regulation over ticketing, University of Chicago Booth School of Business professor of economics and entrepreneurship **Eric Budish** suggested that transparency about where the funds go could bolster those efforts.

“Congress or somebody else should figure out who made how much money on the Taylor Swift tour. Taylor Swift made a lot of money and good for her,” Budish said. “But if a ticket got resold for \$2,000, there’s 35% fees on that, give or take, so the resale platform probably made more on that ticket than Taylor Swift did. The broker made more money on that ticket than Taylor Swift did. The search engines made a bunch of money in aggregate on those tickets. I’d love to see that money added up. I think that could be really persuasive to a large number of consumers.”

Another approach to tackling the issue came from panelist **Neeta Ragoowansi**, executive director of Folk Alliance International and president of Music Managers Forum in the United States. Ragoowansi explained that selling fake

tickets or listing tickets that a seller does not actually own constitutes copyright infringement, since the seller is using the name of an artist and/or venue to sell an item without permission. She suggested taking legal action against brokers or search engines who are allowing them to operate these illegal practices, similar to how the National Music Publishers' Association filed suit against Twitter for copyright infringement over its failure to license music.

Naming NIVA, NITO, Music Managers Forum and the Recording Academy, Ragoowansi said, "There's a variety of interested parties that have members who have standing to file suit there. File suit on mass, class action or even just 15-20 parties who have a variety of causes of action."

A class action against the brokers or search engines could make substantial headlines, says Ragoowansi, adding it would "allow for the parties to come to the table and start talking about settlement and creating a precedent so that others don't come in."



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