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27 **UNITED STATES DISTRICT COURT**
28 **CENTRAL DISTRICT OF CALIFORNIA**

29 FEDERAL TRADE COMMISSION;
30 ATTORNEY GENERAL OF COLORADO;
31 OFFICE OF THE ATTORNEY GENERAL,
32 STATE OF FLORIDA, DEPARTMENT OF
33 LEGAL AFFAIRS; THE PEOPLE OF THE
34 STATE OF ILLINOIS; STATE OF
35 NEBRASKA; STATE OF TENNESSEE;
36 STATE OF UTAH; UTAH DIVISION OF
37 CONSUMER PROTECTION;
38 COMMONWEALTH OF VIRGINIA,

39 Plaintiffs,

40 v.

41 LIVE NATION ENTERTAINMENT, INC.
42 and TICKETMASTER L.L.C.,

43 Defendants.

44 Case No. 2:25-cv-08884-MEMF-MAA

45 **NOTICE OF DEFENDANTS'**
46 **MOTION TO DISMISS**
47 **COMPLAINT FOR PERMANENT**
48 **INJUNCTION, MONETARY**
49 **RELIEF, CIVIL PENALTIES, AND**
50 **OTHER RELIEF;**
51 **MEMORANDUM OF LAW IN**
52 **SUPPORT OF DEFENDANTS'**
53 **MOTION TO DISMISS**

54 Date: February 19, 2026

55 Time: 10:00 a.m.

56 Place: Courtroom 8B

57 Hon. Maame Ewusi-Mensah Frimpong

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE THAT on February 19, 2026 at 10:00 a.m. or as
3 soon thereafter as the matter may be heard before the Honorable Maame Ewusi-
4 Mensah Frimpong, in the United States District Court for the Central District of
5 California located at 350 W. First Street, Los Angeles, CA 90012, Courtroom 8B,
6 Defendants Live Nation Entertainment, Inc. and Ticketmaster L.L.C. will and
7 hereby do move this Court for an Order dismissing Plaintiffs' Complaint for
8 Permanent Injunction, Monetary Relief, Civil Penalties, and Other Relief
9 ("Complaint"). Defendants respectfully submit this Motion pursuant to Rule
10 12(b)(6) of the Federal Rules of Civil Procedure.

11 This Motion requests that the Complaint be dismissed on the basis that
12 Plaintiffs failed to adequately allege their claims under Federal Rules of Civil
13 Procedure 8(a) and 9(b). This Motion is based on this Notice, the accompanying
14 Memorandum of Law, the concurrently filed Declaration of Alexander C.K.
15 Wyman, all pleadings on file in this action, and such oral argument as may be
16 presented on this motion.

17 This motion is made following the conference of counsel pursuant to L.R. 7-
18 3 which took place on December 19, 2025.

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1 Dated: January 6, 2026

Respectfully submitted,

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INTRODUCTION

2 This lawsuit, initiated by the Federal Trade Commission alongside the States
3 of Colorado, Florida, Illinois, Nebraska, Tennessee, Utah, and Virginia (“State
4 Plaintiffs”), reflects an egregious instance of agency overreach. Plaintiffs’ primary
5 allegation is that Live Nation Entertainment, Inc. and Ticketmaster L.L.C.
6 (collectively, “Ticketmaster”) violated the Better Online Ticket Sales Act (“BOTS
7 Act” or “Act”), 15 U.S.C. § 45c. This statute is designed to *help* ticket issuers like
8 Ticketmaster combat ticket harvesting and scalping, ensuring that tickets are
9 accessible to genuine fans. Plaintiffs now ask this Court to take the unprecedented
10 step of applying this law *against* a ticket issuer for its operation of a resale platform.

11 Plaintiffs' BOTS Act claim fails for several reasons under the statute's plain
12 text. First, their theory assumes (without support) that Ticketmaster—rather than
13 ticketholders who possess the tickets—“sells or offers to sell” unlawfully acquired
14 tickets on the resale market. Second, Plaintiffs do not allege “circumvention” of any
15 particular “technological control or measure,” as mandated by the BOTS Act. Third,
16 Plaintiffs fail to plausibly allege facts establishing that that Ticketmaster knew or
17 should have known that any particular ticket on its resale platform was obtained
18 through the circumvention of a technological control. Ultimately, Plaintiffs’ theory
19 boils down to the idea that Ticketmaster is liable under the BOTS Act merely for
20 knowing that some brokers used multiple accounts or that some accounts possessed
21 more tickets than the ticket limit permitted. But that theory does not amount to a
22 violation of the statute Congress enacted. Plaintiffs cannot rewrite that statute
23 through this litigation.

24 The FTC’s Section 5 claims are equally deficient. The first theory—regarding
25 Ticketmaster’s presentation of fees—fails because, as the Complaint acknowledges,
26 Ticketmaster now employs all-in pricing consistent with the Commission’s Rule on
27 Unfair or Deceptive Fees, effective May 2025. And the FTC’s second theory—
28 regarding Ticketmaster’s disclosures about ticket limits—fails because the

1 Complaint identifies nothing false or misleading. These deficiencies also doom the
2 state-law claims, which mirror the Section 5 claims and should be dismissed for the
3 same reasons.

4 **BACKGROUND**

5 **A. Ticketmaster’s Business**

6 Ticketmaster, a subsidiary of Live Nation Entertainment, is the nation’s
7 largest ticketing company, providing primary and secondary ticketing services for
8 live events. Compl. ¶¶ 10, 33. In the primary market, tickets are first offered for sale
9 during an “onsale.” Ticketmaster facilitates these onsales on behalf of the event
10 organizer (e.g., an artist, promoter, or venue) who determines the face value ticket
11 price. *Id.* ¶ 36. The venue typically sets the fees, a portion of which are remitted to
12 the ticketing company (here, Ticketmaster) for distributing tickets in the onsale. *Id.*

13 In the secondary market, ticketholders offer their ticket—the license to attend
14 an event—to another person. *See id.* ¶ 33. In this context, Ticketmaster acts as the
15 platform of exchange. These tickets are typically exchanged at prices determined by
16 market demand, plus fees that Ticketmaster charges the buyer and seller. *See id.*
17 ¶¶ 37, 39.

18 **B. Ticketmaster Supports And Announces Its Intention To
19 Implement All-In Pricing**

20 For years, major ticketing platforms (including Ticketmaster) displayed
21 applicable fees and taxes at checkout, along with the face price of the ticket and the
22 total the consumer would be charged. But as the FTC has acknowledged,
23 Ticketmaster has long advocated for “all-in pricing,” a practice in which the upfront
24 price a fan sees on the ticketing platform includes any applicable fees. *See* 90 Fed.
25 Reg. 2066, 2088, 2096 n.283 (Jan. 10, 2025). Unfortunately, Ticketmaster alone
26 could not feasibly implement all-in pricing unless there was a “nationwide” rule
27 requiring it because “adopting all-in pricing ‘absent a mandate creates a first-mover
28 disadvantage.’” *Id.* at 2088. As former FTC Commissioner Rebecca Kelly Slaughter

1 explained, Ticketmaster faced a “classic prisoner’s dilemma”: adopting all-in pricing
2 while other ticketing marketplaces did not would shift sales to platforms listing a
3 lower upfront price. Rebecca Kelly Slaughter, Comm’r, FTC, *Prepared Remarks:*
4 “*That’s the Ticket*” *Workshop on Online Ticket Sales* (June 11,
5 2019), https://www.ftc.gov/system/files/documents/public_statements/1527238/slaughter_-_prepared_remarks_ftc_tickets_workshop_6-11-19.pdf. Ticketmaster thus
6 urged the FTC to issue a “nationwide rule[] to implement all-in pricing,” which
7 “would ‘increase pricing transparency for fans and support competition in the
8 ticketing industry.’” 90 Fed. Reg. at 2088.

9
10 In January 2025, the FTC did just that, promulgating the Trade Regulation
11 Rule on Unfair or Deceptive Fees. *Id.* at 2066; 16 C.F.R. §§ 464 *et seq.* This rule,
12 which effectively mandates all-in pricing for live events, became effective in May
13 2025. Compl. ¶ 63. Ticketmaster agreed to implement all-in pricing as of that date,
14 and the Complaint does not allege Ticketmaster has done otherwise. *Id.*

15 **C. Ticketmaster Is An Industry-Leader In Combating Ticket
16 Harvesting And Scalping**

17 For certain live events, Ticketmaster limits the number of tickets that can be
18 purchased by a single account. *Id.* ¶¶ 66-67. These purchase limits, set by event
19 organizers, help get tickets to real fans and discourage scalping. *See id.* ¶ 65;
20 Declaration of Alexander C.K. Wyman (“Wyman Decl.”) Ex. 1 at 5.¹ Ticketmaster’s
21 Terms of Use and Purchase Policy prohibit circumventing these ticket purchase
22 limits. Compl. ¶¶ 68-69. If a purchaser exceeds or attempts to exceed purchase
23 limits, Ticketmaster “reserve[s] the right to cancel … any or all orders and tickets,
24 in addition to prohibiting [the purchaser’s] ticket purchasing abilities.” *Id.* ¶ 69.

25
26 ¹ Ticketmaster: Purchase Policy (effective Jan. 1, 2021),
27 <https://legal.ticketmaster.com/wp-content/uploads/2025/06/Purchase-Policy-%E2%80%93-Last-Update-January-1-2021.pdf>. The Complaint references the
28 policy, Compl. ¶¶ 68-69, and thus the Court may consider it because it is
incorporated by reference. *Knievel v. ESPN*, 393 F.3d 1068, 1076 (9th Cir. 2005);
see also Defendants’ Request for Judicial Notice.

1 Ticketmaster's efforts to enforce these per-account event ticket limits extend
2 beyond its policies. The Complaint concedes that Ticketmaster has invested in a
3 wide "array of security measures for enforcing event ticket limits." Compl. ¶ 71; *see*
4 *also id.* ¶¶ 74, 76. Many of these measures aim to prevent scalpers and brokers from
5 using automated ticket purchasing technology, or "bots," to quickly acquire large
6 quantities of tickets for resale at inflated prices, a practice known as "ticket
7 harvesting." These measures include virtual waiting rooms and queuing systems,
8 automated blocking of repeat or coordinated purchase attempts, and account
9 verification codes. *Id.* ¶¶ 70-71, 76.

10 Despite Ticketmaster's efforts, scalpers persist in using technology to step in
11 front of fans to obtain an outsized share of tickets and resell them at marked up prices
12 in a multibillion-dollar resale market. *Id.* ¶¶ 74, 76. For instance, brokers create
13 hundreds or thousands of Ticketmaster accounts to buy more tickets without
14 exceeding the per-account ticket limit. *Id.* ¶ 74. Scalpers also use software that
15 allows them to log into multiple accounts at the same time to bypass screening and
16 verification measures. *Id.* ¶ 76.

17 **D. Congress Enacted The BOTS Act To Protect Platforms From Bad
18 Actors That Use Technological Exploits To Circumvent Purchase
19 Limits**

20 Recognizing the growing problem of automated ticket purchasing tactics,
21 Ticketmaster has advocated for legislative and regulatory change. One such change
22 was the BOTS Act (2016), 15 U.S.C. § 45c. Congress recognized that "[t]he market
23 for live event tickets has encountered challenges from scalpers who use software to
24 circumvent the safeguards primary ticket sellers use to limit ticket purchases." S.
25 Rep. No. 114-391, at 1 (2016). The BOTS Act accordingly makes it unlawful to
26 acquire tickets by circumventing a "technological control or measure" used by a
27 ticket issuer like Ticketmaster to enforce limits on ticket purchases. 15 U.S.C.
28 § 45c(a)(1)(A). The Act also makes it unlawful for anyone who knows a ticket was

1 acquired through such circumvention to sell or offer to sell the ill-gotten ticket. *Id.*
2 § 45c(a)(1)(B).

3 Until this case, the FTC has enforced the BOTS Act according to Congress's
4 direction, targeting scalpers and ticket brokers that allegedly use bots, proxy servers,
5 fictitious identities, and other technological exploits to bypass Ticketmaster's
6 technological controls. The FTC has never enforced the Act against a ticket issuer
7 or platform—nor even suggested it could—until this case.

8 **E. The FTC Initiates The Instant Lawsuit**

9 Plaintiffs, which consist of the FTC and seven states, filed this action on
10 September 18, 2025. The Complaint asserts ten claims. Plaintiffs assert a BOTS Act
11 claim alleging Ticketmaster is liable for selling unlawfully acquired tickets. Compl.
12 ¶¶ 119-25 (Count III). Plaintiffs also assert claims under Section 5 of the FTC Act
13 and state-law analogues challenging Ticketmaster's prior pricing displays and
14 statements regarding ticket purchase limits. *Id.* ¶¶ 111-18 (Counts I-II) (FTC Act);
15 *id.* at pp. 59-73 (Counts IV-X) (state-law claims). They allege Ticketmaster
16 historically “displayed deceptively low ticket prices” by adding fees later in the
17 purchasing process, *id.* ¶ 12, and that its ticket limits are deceptive because
18 Ticketmaster “routinely allow[s] ticket brokers to exceed ticket limits.” *Id.* ¶ 14.

19 **LEGAL STANDARD**

20 To survive a motion to dismiss under Federal Rule of Civil Procedure
21 12(b)(6), a “complaint must contain sufficient factual matter, accepted as true, to
22 ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662,
23 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by
24 mere conclusory statements, do not suffice,” nor do “‘legal conclusion[s] couched
25 as ... factual allegation[s].’” *Id.*

26 Because the Complaint asserts a unified course of deceptive conduct
27 regarding pricing and ticket limits, the allegations sound in fraud and must satisfy
28 Federal Rule of Civil Procedure 9(b). *See FTC v. Lights of Am., Inc.*, 760 F. Supp.

1 2d 848, 854 (C.D. Cal. 2010) (“Rule 9(b) applies to claims for violation of the FTC
2 Act.”); *Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1127 (9th Cir. 2009) (dismissing
3 consumer protection claims under Rule 9(b)). Rule 9(b) requires fraud to be pled
4 with “particularity”—i.e., “the who, what, when, where, and how’ of the
5 misconduct charged.” *Kearns*, 567 F.3d at 1124.

6 **ARGUMENT**

7 **I. THE BOTS ACT CLAIM (COUNT III) MUST BE DISMISSED**

8 This Court should dismiss the claim that Ticketmaster, a ticket issuer, violated
9 the BOTS Act. Compl. ¶¶ 119-25. Congress enacted the BOTS Act in 2016 to curb
10 certain abuses in the online ticketing marketplace caused by ticket harvesting and
11 scalping. The Act makes it unlawful for any person:

12 (A) to circumvent a security measure, access control system, or other
13 technological control or measure on an Internet website or online service that
14 is used by the ticket issuer to enforce posted event ticket purchasing limits or
to maintain the integrity of posted online ticket purchasing order rules; or

15 (B) to sell or offer to sell any event ticket in interstate commerce obtained in
16 violation of subparagraph (A) if the person selling or offering to sell the ticket
either—

17 (i) participated directly in or had the ability to control the conduct in
18 violation of subparagraph (A); or

19 (ii) knew or should have known that the event ticket was acquired in
20 violation of subparagraph (A).

21 15 U.S.C. § 45c(a)(1).

22 The Act thus prohibits two interrelated practices. Subparagraph (A) prohibits
23 conduct in the context of *buying* a ticket, specifically acquiring a ticket through
24 circumvention of technological controls or measures used by ticket issuers. *Id.*
25 § 45c(a)(1)(A). Subparagraph (B) proscribes conduct in the context of *selling* a
26 ticket, specifically selling a ticket obtained through such circumvention where the
27 seller either (i) participated directly in or had the ability to control the circumvention,
28 or (ii) knew or should have known the ticket they are selling was acquired through

1 such circumvention. *Id.* § 45c(a)(1)(B). Plaintiffs allege only that Ticketmaster
2 violated subparagraph (B). Compl. ¶¶ 124-25. But this claim is fundamentally
3 flawed.

4 As an initial matter, the BOTS Act has a three-year statute of limitations. *See*
5 15 U.S.C. § 57b(d). Yet much of the alleged conduct occurred between 2018 through
6 2022—more than three years before Plaintiffs initiated this action. *See, e.g.*, Compl.
7 ¶¶ 87-88, 92-99. The allegations that fall outside the limitations period cannot
8 support Plaintiffs’ claim for relief. *See Yumul v. Smart Balance, Inc.*, 733 F. Supp.
9 2d 1117, 1133-34 (C.D. Cal. 2010) (dismissing claims “to the extent they allege
10 conduct outside the applicable statutes of limitations”).

11 As to the allegations that fall within the limitations period, the Complaint fails
12 to state a claim. To state a claim under subparagraph (B) of the BOTS Act, Plaintiffs
13 must adequately allege that: (1) Ticketmaster “sell[s] or offer[s] to sell” tickets;
14 (2) those tickets were “obtained in violation of subparagraph (A),” meaning they
15 were acquired through the “circumvent[ion]” of a “technological control or
16 measure”; and (3) Ticketmaster “knew or should have known” the tickets were
17 “acquired in violation of subparagraph (A).” 15 U.S.C. § 45c(a)(1)(B). The
18 Complaint fails to adequately allege any of these required elements.

19 **A. Ticketmaster Provides A Platform And Does Not Itself Sell Or
20 Offer To Sell Tickets Listed By Third Parties**

21 First, the Complaint fails to allege that Ticketmaster “sells or offers to sell”
22 tickets under subparagraph (B) of the BOTS Act. 15 U.S.C. § 45c(a)(1)(B). Rather,
23 tickets are offered and sold by those who possess them—that is, the consumers or
24 brokers who list them on the resale market.

25 Starting with the text, the word “sell” is undefined and thus takes its “ordinary
26 meaning” in the “context” in which it appears. *Roberts v. Sea-Land Servs., Inc.*, 566
27 U.S. 93, 100-01 (2012). The ordinary meaning of “sell” is to convey an interest for
28 consideration. *See, e.g.*, *New Oxford American Dictionary* 1586 (3d ed. 2010) (“give

1 or hand over (something) in exchange for money"); *Sell*, *Black's Law Dictionary*
2 (12th ed. 2024) ("To transfer (property) by sale"); *Sale*, *Black's Law Dictionary*
3 (12th ed. 2024) ("The transfer of property or title for a price"). In turn, an "offer to
4 sell" means expressing a willingness to convey an interest for consideration. *See*
5 *Restatement (Second) of Contracts* § 24 (1981) ("An offer is the manifestation of
6 willingness to enter into a bargain[.]"). These definitions are consistent with
7 everyday usage: when someone sells a good to another person, they hand over the
8 good in exchange for payment. But the person must own or possess an item to sell
9 it. In the context of ticket resales under subparagraph (B), "sell or offer to sell" thus
10 targets individuals, such as consumers or brokers, who possess an ill-gotten ticket
11 and either convey or attempt to convey the rights associated with the ticket to another
12 person for consideration.

13 The statute's structure reinforces this reading. Consistent with Congress's
14 efforts to curtail abuses by scalpers, subparagraphs (A) and (B) work together to
15 target both aspects of scalpers' operations. Subparagraph (A) targets scalpers who
16 nefariously acquire tickets by circumventing ticket issuers' technical ticket limit
17 controls, and subparagraph (B) targets the sale of tickets nefariously acquired in
18 excess of those limits. Interpreting the statute this way makes it "work[] as a
19 seamless whole." *United States v. Corrales-Vazquez*, 931 F.3d 944, 950 (9th Cir.
20 2019). Extending subparagraph (B) to the very ticket issuers whose technological
21 controls are being circumvented would "disrupt[that] careful structure." *Id.*; *see also*
22 *Van Buren v. United States*, 593 U.S. 374, 389-90 (2021) (rejecting government's
23 reading of a statute that creates structural inconsistencies).

24 Applying this straightforward interpretation, the Complaint fails to
25 demonstrate that Ticketmaster "sell[s] or offer[s] to sell" tickets in the resale market.
26 The Complaint acknowledges that Ticketmaster merely provides a platform where
27 "consumers ... list tickets for resale." Compl. ¶ 37 (emphasis added). It is therefore
28 the "consumer" selling the ticket; Ticketmaster neither owns nor possesses the resold

1 ticket. Ticketmaster's Purchase Policy confirms: "If you purchase a resale ticket
2 through our Site, you will be purchasing that ticket from either (a) a reseller who is
3 not an Event Organizer, such as other fans, season ticket holders, or professional
4 resellers, or (b) in limited circumstances, the Event Organizer." Wyman Decl. Ex. 1
5 at 3.

6 Judicial analysis of ticketing platforms' resale services confirms what the
7 Act's text makes clear: resale platforms, like Ticketmaster, are not "sellers" or
8 "offerors." *See, e.g., Fabozzi v. StubHub, Inc.*, 2012 WL 506330, at *1 n.1 (N.D.
9 Cal. Feb. 15, 2012) ("Although Plaintiff uses the phrase 'ticket reseller' to describe
10 Stubhub, Stubhub does not actually buy or sell tickets; rather, it is a marketplace for
11 third-party users to buy and sell tickets."); *Hill v. StubHub, Inc.*, 219 N.C. App. 227,
12 248 (2012) (statute that prohibited "sell[ing] or offer[ing] to sell" tickets greater than
13 a specified price did not apply to StubHub because it was not "a ticket seller nor the
14 ticket seller's agent"); *see also Porras v. StubHub, Inc.*, 2012 WL 3835073, at *3
15 (N.D. Cal. Sept. 4, 2012) ("StubHub is a virtual marketplace allowing users to
16 purchase tickets from anonymous third parties."). Courts likewise hold platform
17 operators are not sellers in a wide variety of contexts. *See, e.g., Ind. Farm Bureau*
18 *Ins. v. Shenzhen Anet Tech. Co.*, 2020 WL 7711346, at *6 (S.D. Ind. Dec. 29, 2020)
19 ("[M]yriad burgeoning federal and state court cases agree that an online marketplace
20 operator is not a 'seller' of a third-party vendor's products[.]" (citing cases)); *State*
21 *Farm Fire & Cas. Co. v. Amazon.com, Inc.*, 835 F. App'x 213, 216 (9th Cir. 2020)
22 (Amazon was not the "seller" of hoverboards purchased on the marketplace); *Est. of*
23 *Graham v. Sotheby's, Inc.*, 178 F. Supp. 3d 974, 998 (C.D. Cal. 2016), *aff'd in part,*
24 *rev'd in part and remanded on other grounds sub nom. Close v. Sotheby's, Inc.*, 894
25 F.3d 1061 (9th Cir. 2018) (similar for eBay); *United States v. eBay Inc.*, 751 F. Supp.
26 3d 232, 240 (E.D.N.Y. 2024) (same).

27 Because Ticketmaster does not "sell or offer to sell" tickets, it cannot be liable
28 under subparagraph (B).

B. Plaintiffs Fail To Allege Any Particular Ticket On Ticketmaster's Platform Was Obtained Through Circumvention Of Any Specific Technological Control

3 Plaintiffs also fail to properly allege predicate subparagraph (A) violations as
4 required by subparagraph (B). Subparagraph (B) imposes liability only for tickets
5 sold “in violation of subparagraph (A).” 15 U.S.C. § 45c(a)(1)(B). That means the
6 ticket underlying the subparagraph (B) claim must have been obtained through the
7 “circumvent[ion]” of a “technological control or measure” used “to enforce posted
8 event ticket purchasing limits.” *Id.* § 45c(a)(1)(A). Plaintiffs do not even attempt to
9 satisfy this requirement because they fail to connect their claims to any technological
10 control that was circumvented to obtain a single specific ticket.

11 1. **Technological Control.** As an initial matter, Plaintiffs ignore the
12 “technological control or measure” element. The BOTS Act does not define the
13 phrase, but it appears as a catch-all at the end of a list: “security measure, access
14 control system, *or other technological control or measure.*” *Id.* (emphasis added).
15 The scope of “technological control or measure” is therefore “defined by reference”
16 to the specific” statutory examples that precede it. *Southwest Airlines Co. v. Saxon*,
17 596 U.S. 450, 458 (2022). Accordingly, like a “security measure” or “access control
18 system,” a “technological control or measure” is an affirmative safeguard
19 implemented to restrict access to a space or resource, such as onsales and tickets, by
20 preventing, delaying, or detecting automated or excessive purchase attempts. 15
21 U.S.C. § 45c(a)(1)(A). The Complaint itself identifies technological controls like
22 automatic IP address blocking and account-verification codes. Compl. ¶ 76; *see also*
23 S. Rep. No. 114-391, at 1 (2016) (citing CAPTCHAs and virtual queues as examples
24 of controls).

25 Plaintiffs, however, do not tether their claim to any technological controls or
26 measures that were circumvented. Instead, the Complaint broadly alleges
27 Ticketmaster is liable because the tickets listed for resale were purchased in violation
28 of ticket limits. *See, e.g.*, Compl. ¶¶ 66-69. But ticket limits are not “technological

1 control[s] or measure[s].” The statute expressly distinguishes them: it refers to a
2 “*technological control or measure* … that is used by the ticket issuer to enforce
3 posted event *ticket purchasing limits*.” 15 U.S.C. § 45c(a)(1)(A) (emphasis added).
4 The “technological control[s] or measure[s]” are thus the mechanisms “used” to
5 “enforce” ticket limits. The critical question is not whether a purchaser violated
6 ticket limits, but whether they circumvented a technological control to do so.

7 Courts routinely enforce similar statutory distinctions. For example, in *Van*
8 *Buren*, the Supreme Court held that language in the Computer Fraud and Abuse Act
9 (“CFAA”) regarding “exceed[ing] authorized access” specifies a “distinct way[] of
10 obtaining information unlawfully”—an authorized user must bypass restrictions to
11 obtain information “located in particular areas of the computer” that “are off limits
12 to him.” 593 U.S. at 389, 396. By specifying a particular “manner” of access, the
13 statute does not sweep in “every violation of a computer-use policy.” *Id.* at 384-85,
14 394. For the same reason, the Ninth Circuit held that “the phrase ‘exceeds authorized
15 access’ in the CFAA does not extend to violations of use restrictions”; thus, “a
16 violation of the terms of use of a website—without more—cannot establish
17 liability.” *Facebook, Inc. v. Power Ventures*, 844 F.3d 1058, 1066-67 (9th Cir.
18 2016). These cases reinforce what the BOTS Act’s text makes plain: the statute does
19 not apply to all violations of ticket limits (which are no different than use policies
20 and terms); it targets a particular manner of such violations—those that result from
21 the circumvention of technological controls.

22 Plaintiffs fail to connect their BOTS Act claim to a particular technological
23 control or measure. By conflating technological controls and ticket limits, Plaintiffs
24 read “technological control or measure” out of the Act, contrary to “the settled rule”
25 that statutes must be construed “to give every word some operative effect.” *Cooper*
26 *Indus., Inc. v. Aviail Servs., Inc.*, 543 U.S. 157, 167 (2004). To the extent Plaintiffs
27 assume a violation of ticket limits reflects a circumvention of some unidentified
28 technological control, that conclusory assumption flouts their obligation to plead

1 facts supporting each element of their claim. *See FTC v. Swish Mktg.*, 2010 WL
2 653486, at *4 (N.D. Cal. Feb. 22, 2010) (“A pleading that offers ‘labels and
3 conclusions’ or a ‘formulaic recitation of the elements of a cause of action will not
4 do.’”); *FTC v. Walmart Inc.*, 664 F. Supp. 3d 808, 825 (N.D. Ill. 2023) (dismissing
5 FTC’s “conclusory allegations” of required elements); *FTC v. Facebook, Inc.*, 560
6 F. Supp. 3d 1, 18 (D.D.C. 2021) (same).

7 **2. *Circumvention*.** Plaintiffs also ignore their obligation to allege the
8 “circumvent[ion]” of the ticket issuer’s technological control. 15 U.S.C.
9 § 45c(a)(1)(A). In ordinary parlance, “circumvent” means evading or avoiding a
10 particular restriction. *See, e.g.*, *Circumvent*, *Black’s Law Dictionary* (12th ed. 2024)
11 (“To avoid (a restrictive problem, rule, etc.), esp[ecially] by clever and sometimes
12 dishonest means”). That follows how Congress has used the term in other contexts
13 involving technological circumvention. The Digital Millennium Copyright Act
14 (“DMCA”), for example, prohibits “circumvent[ing] a technological measure” that
15 protects copyrighted works, and defines “circumvent” to mean “avoid, bypass,
16 remove, deactivate, or impair a technological measure.” 17 U.S.C. § 1201(a)(1)(A),
17 (a)(3)(A). Accordingly, the failure to allege circumvention of a technological control
18 requires dismissal. *See, e.g.*, *iSpot.tv, Inc. v. Teyfukova*, 2023 WL 3602806, at *5-7
19 (C.D. Cal. May 22, 2023) (Frimpong, J.) (dismissing DMCA claim for failure to
20 allege circumvention of a technological measure).

21 The Complaint fails to allege any specific acts of circumvention. To the
22 contrary, Plaintiffs’ theory is that Ticketmaster “allow[s] ticket brokers to exceed
23 ticket limits,” Compl. ¶¶ 14-15, 17, and that although it has “technological and other
24 means to prevent brokers from evading ticket limits,” it “do[es] not use them,” *id.*
25 ¶ 90. This theory forecloses a BOTS Act claim: if Ticketmaster (as Plaintiffs allege)
26 allowed brokers to exceed ticket limits, then the brokers necessarily did not
27 “circumvent” technological controls to do so. Because Plaintiffs have not “properly
28 pleaded circumvention,” the BOTS Act claim must be dismissed.

1 **3. Specific Ticket.** Plaintiffs also fail to identify a specific ticket they allege
2 Ticketmaster sold in violation of the BOTS Act. Instead, they allege aggregate
3 violations. *See, e.g.*, Compl. ¶ 103 (alleging generally Ticketmaster has “offered to
4 sell and sold millions of secondary market tickets acquired by brokers who
5 circumvented their enforcement measures”). But the alleged wrongdoing must be
6 tied to concrete facts, not generalized practices or hypothetical transactions. *See*
7 *Eclectic Props. E., LLC v. Marcus & Millichap Co.*, 751 F.3d 990, 996 (9th Cir.
8 2014). This requirement has particular force where, as here, both lawful and
9 unlawful conduct are plausible explanations for why a broker could possess multiple
10 Ticketmaster accounts or why they may possess, in aggregate, more tickets than the
11 posted event ticket limit during an onsale. Without identifying which tickets
12 Ticketmaster allegedly “sold” that were allegedly tainted, the Complaint leaves
13 Ticketmaster and the Court to speculate about the specific basis for liability. Rule 8
14 does not permit that, much less Rule 9(b). *Id.* at 1000; *Iqbal*, 556 U.S. at 678.

15 **C. Plaintiffs Fail To Adequately Allege Ticketmaster Knew Or Should
16 Have Known That Any Particular Ticket Listed On Its Platform
17 Was Purchased In Violation Of The BOTS Act**

18 Even if Plaintiffs had identified tickets listed on Ticketmaster’s platform
19 acquired in violation of subparagraph (A), they do not plausibly allege that
20 Ticketmaster “knew or should have known” that any specific ticket was so acquired.
21 15 U.S.C. § 45c(a)(1)(B)(ii). The “knew or should have known” standard requires
22 more than allegations that a defendant should have known about unlawful conduct
23 *generally*. *Ratha v. Phatthana Seafood Co.*, 35 F.4th 1159 (9th Cir. 2022)
24 (“Sweeping generalities . . . are too attenuated to support an inference that
25 [defendant] knew or should have known of the specifically alleged [] violations.”).
26 Instead, to hold a platform liable for knowledge of unlawful listings, courts require
27 plaintiffs to specify the listing defendant allegedly knew or should have known to
28 be unlawful. *See Y.Y.G.M. SA v. Redbubble, Inc.*, 75 F.4th 995, 1000-01 (9th Cir.
2023); *Tiffany (NJ) Inc. v. eBay Inc.*, 600 F.3d 93, 107 (2d Cir. 2010); *Viacom Int’l*,

1 *Inc. v. YouTube, Inc.*, 676 F.3d 19, 33 (2d Cir. 2012) (estimate that “75-80% of all
2 YouTube streams contained copyrighted material” was insufficient to satisfy the
3 knowledge element under the DMCA).

4 The Complaint offers no plausible allegation that Ticketmaster knew or
5 should have known any specific ticket resold on its platform was acquired through
6 a BOTS Act violation. Instead, Plaintiffs point to the number of accounts certain
7 brokers maintained and the number of tickets they held across all accounts in 2018
8 and 2019 (before the applicable limitations period) to suggest that Ticketmaster
9 knew or should have known tickets resold by those brokers in 2023 and 2024 were
10 obtained in violation of the BOTS Act. *See* Compl. ¶¶ 104-05. Plaintiffs also cite to
11 Ticketmaster’s suite of ticket management tools for resellers to suggest it must know
12 when the users of these tools have violated technological controls. *Id.* But alleging
13 that brokers had multiple accounts or aggregated ticket holdings above a per-account
14 limit does not plausibly establish that any of those tickets were originally acquired
15 through the circumvention of a technological control. Nor does it demonstrate that
16 Ticketmaster knew or should have known of such circumvention when the specific
17 ticket was listed for sale.

18 **D. At Minimum, The Claim For Civil Penalties Must Be Dismissed
19 Because The FTC Fails To Adequately Allege Ticketmaster Knew
Its Conduct Violated The BOTS Act**

20 The claim for civil monetary penalties is independently flawed. The FTC
21 seeks “civil penalties” under Section 5(m)(1)(A) of the FTC Act, Compl. ¶¶ 1, 163,
22 which allows for civil penalties against any party who “violates any rule under this
23 subchapter … with actual knowledge or knowledge fairly implied on the basis of
24 objective circumstances that such act is unfair or deceptive and is prohibited by such
25 rule.” 15 U.S.C. § 45(m)(1)(A). “Knowledge” is “fairly implied” only when the
26 defendant “should have known [its] act was unlawful” based on “the text” of the law
27 itself. *United States v. Dish Network L.L.C.*, 954 F.3d 970, 978-79 (7th Cir. 2020).
28 A mistake or uncertainty regarding the law precludes liability. *Jerman v. Carlisle*,

1 *McNellie, Rini, Kramer & Ulrich LPA*, 559 U.S. 573, 583-84 (2010). Thus, the FTC
2 must allege not only knowledge (or deliberate ignorance) of an underlying BOTS
3 Act violation (which it has not), but also that Ticketmaster acted “with actual
4 knowledge or knowledge fairly implied on the basis of objective circumstances” that
5 its conduct violated the Act.

6 The FTC does not attempt to meet this standard, nor could it. The BOTS Act’s
7 text does not address liability for ticket issuers or platforms. The text, legislative
8 history, and the FTC’s own past enforcement practices indicate that the statutory
9 scheme is intended to *support* platforms. There is no basis in the Act for Plaintiffs’
10 theory that Ticketmaster violates the Act by “allow[ing]” scalpers to obtain tickets
11 or “turn[ing] a blind eye.” Compl. ¶¶ 90, 107. None of the alleged actions or
12 inactions by Ticketmaster regarding abuse prevention are mentioned in, or directly
13 implied by, “[t]he [BOTS Act’s] text.” *Dish Network*, 954 F.3d at 979. “Where, as
14 here, the statutory text and relevant court and agency guidance allow for more than
15 one reasonable interpretation, it would defy history and current thinking to treat a
16 defendant who merely adopts one such interpretation as a knowing or reckless
17 violator.” *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 70 n.20 (2007).

18 **E. The State Plaintiffs Cannot Join the FTC’s BOTS Act Claim**

19 Congress granted primary enforcement authority of the BOTS Act to the FTC.
20 15 U.S.C. § 45c(b). States may bring civil actions only if the FTC has not already
21 done so. *Id.* § 45c(c)(1), (4). Because the FTC has instituted this action, states are
22 precluded from bringing a BOTS Act claim “during the pendency of such action ...
23 against any defendant named in the Complaint ... for the [same] violation.” *Id.* The
24 states cannot evade this statutory prohibition by purporting to “join” the FTC’s
25 claim. Compl. ¶ 125. When Congress intends to allow such joinder, it says so. *See,*
26 *e.g.*, 15 U.S.C. § 45f(d)(4) (authorizing states to join actions by the FTC under the
27 INFORM Consumers Act). Congress’s decision not to replicate that authority in
28 Section 45c is decisive. *See Lackey v. Stinnie*, 604 U.S. 192, 205 (2025).

1 **II. THE SECTION 5 CLAIMS (COUNTS I - II) MUST BE DISMISSED**

2 The FTC also claims Ticketmaster's pricing disclosures and ticket purchase
3 limits are "deceptive" practices under Section 5 of the FTC Act. Compl. ¶¶ 111-18.
4 To state a claim for deceptive acts or practices, a plaintiff must allege (1) a material
5 "representation, omission, or practice" that (2) "is likely to mislead consumers acting
6 reasonably under the circumstances." *FTC v. Stefanchik*, 559 F.3d 924, 928 (9th Cir.
7 2009). These allegations must satisfy the heightened pleading requirement under
8 Rule 9(b). *See Lights of Am.*, 760 F. Supp. 2d at 854. Here, the Complaint's
9 allegations regarding Ticketmaster's ticket price disclosures and purchase limits fail
10 to state a claim under Rule 9(b) or even under Rule 8(a).

11 **A. The FTC's Claim Regarding Ticketmaster's Fee Disclosures
12 (Count I) Fails**

13 The FTC's first Section 5 claim concerns Ticketmaster's fee disclosures.
14 According to the FTC, Ticketmaster "displayed deceptively low ticket prices to
15 consumers and charged much more," by showing "a list price in the search results
16 that does not reflect the actual cost to consumers at checkout," then adding
17 "substantial mandatory fees not included in the list price." Compl. ¶ 12. This claim
18 fails because the FTC does not allege: (1) ongoing or imminent misconduct; and (2)
19 false or misleading conduct.

20 **1. The FTC Fails To Adequately Allege Ongoing Or Imminent
21 Misconduct**

22 The FTC brings its Section 5 claims under Section 13(b) of the FTC Act. *See*
23 Compl. ¶ 1. But that provision allows the FTC to obtain an injunction only if the
24 defendant "is violating, or is about to violate, any provision of law enforced by the
25 [FTC]." 15 U.S.C. § 53(b) (emphasis added). By "requir[ing]" that the defendant must
26 be 'violating' or 'about to violate' the law," Section 13(b)'s text "require[s]" the
27 FTC to demonstrate "the existence of ongoing or imminent unlawful conduct." *FTC
28 v. Credit Bureau Ctr., LLC*, 937 F.3d 764, 772-73 (7th Cir. 2019); *FTC v. QYK*

1 *Brands LLC*, 2024 WL 1526741, at *3 (9th Cir. Apr. 9, 2024). Section 13(b) “may
2 not be used to remedy a past violation that is not likely to recur.” *FTC v. Evans*
3 *Prods. Co.*, 775 F.2d 1084, 1089 (9th Cir. 1985).

4 That dooms the FTC’s ability to predicate a Section 5 claim on Ticketmaster’s
5 fee disclosures. The FTC’s theory rests on allegations about Ticketmaster’s outdated
6 displays in which ticket prices did not include fees. But the Complaint concedes
7 Ticketmaster has implemented all-in pricing as of May 2025. *See* Compl. ¶ 63. The
8 FTC does not and cannot claim otherwise, nor can it plausibly allege that
9 Ticketmaster is on the brink of imminently returning to its old practices, as
10 Ticketmaster implemented all-in pricing in response to the FTC’s rule mandating
11 all-in pricing that Ticketmaster forcefully championed. *See id.* Because the FTC
12 cannot show that Ticketmaster “is violating, or is about to violate” the law with
13 respect to its fee disclosures, this claim should be dismissed.

14 **2. Prior Disclosures Did Not Violate Section 5 In Any Event**

15 Even if Ticketmaster’s prior disclosures were relevant, the FTC has failed to
16 adequately allege that the disclosures were deceptive. To be deceptive, the display
17 must be false or misleading. *See FTC v. Gill*, 265 F.3d 944, 950 (9th Cir. 2001). Rule
18 9(b) requires that plaintiffs plead “*what* is false or misleading” and “*why* it is false.”
19 *Morgan v. Twitter, Inc.*, 2025 WL 1248821, at *3 (9th Cir. Apr. 30, 2025) (emphasis
20 added). The act or practice alleged to be deceptive must be considered from the
21 perspective of “consumers acting reasonably under the circumstances.” *Davis v.*
22 *HSBC Bank*, 691 F.3d 1152, 1168 (9th Cir. 2012). Rather than identify with
23 particularity what about Ticketmaster’s fee display was false or misleading—much
24 less *why* it was misleading—the FTC’s allegations confirm that Ticketmaster’s
25 pricing display was not false or misleading.

26 The FTC concedes Ticketmaster displayed the face value price at the outset
27 of the transaction and the final price, inclusive of fees, before purchase. *See* Compl.
28 ¶ 40 (“Ticketmaster shows the list price for the available tickets” on the ticket

1 selection page), ¶ 52 (noting disclosure of fees “at the end” of the purchase flow).
2 Where the higher total price is conspicuously disclosed by the end of the transaction,
3 courts have found the price is not deceptive. *Hall v. Marriott Int’l, Inc.*, 344 F.R.D.
4 247, 265 (S.D. Cal. 2023) (finding advertised rates “on the first page of Marriott’s
5 booking process” not deceptive because additional fees were “clearly and
6 conspicuously disclosed by the end of the booking transaction”). The Complaint also
7 concedes that when a consumer sought to buy a ticket, they were presented with a
8 disclosure accompanying the face value price that the final price would include fees.
9 See Compl. ¶ 46 (discussing +Fees notice at ticket selection). Qualifying language
10 that unambiguously clarifies an allegedly misleading statement defeats a deception
11 claim. See *Freeman v. Time, Inc.*, 68 F.3d 285, 289 (9th Cir. 1995) (finding a
12 sweepstakes promotion not deceptive where qualifying language “expressly and
13 repeatedly” appeared regarding requirements for winning sweepstakes); *see also*
14 *Bobo v. Optimum Nutrition, Inc.*, 2015 WL 13102417, at *5 (S.D. Cal. Sept. 11,
15 2015) (“a reasonable consumer … cannot look at only one statement to the exclusion
16 of everything else and claim he has been misled”).

17 **B. The FTC’s Claim Regarding Ticketmaster’s Ticket Limit
18 Disclosures (Count II) Fails**

19 The FTC also claims that Ticketmaster’s ticket limit disclosures are deceptive
20 under Section 5. According to the FTC, Ticketmaster “deceptively represent[s] that
21 [it] impose[s] strict ticket limits,” yet “routinely allow[s] ticket brokers to exceed
22 [them].” Compl. ¶¶ 14, 116. This claim also fails.

23 1. The FTC Fails To Adequately Allege Ticketmaster’s Ticket
24 Limit Disclosures Are False Or Misleading

25 Plaintiffs cannot plausibly allege that Ticketmaster’s posted ticket-limit
26 disclosures are false or misleading. The Complaint concedes that Ticketmaster posts
27 ticket purchase limits at the event organizers’ direction. Compl. ¶ 66 (“For primary
28 market sales … artists determine the number of tickets that a consumer can buy[.]”);

1 *id.* ¶ 67 (“For each event, Ticketmaster … displays the ticket limit alongside other
2 event information in the ticket browsing flow.”). The Complaint does not allege, nor
3 could it, that Ticketmaster represented it could detect every ticket purchase violation
4 or take action against every ticket purchase limit violator. Instead, Ticketmaster
5 “reserve[s] the right,” but is not obliged, to cancel tickets it suspects of being
6 acquired in excess of ticket purchase limits. *Id.* ¶ 69.

7 And Ticketmaster does attempt to identify violations. The Complaint
8 concedes that Ticketmaster successfully blocked attempts to exceed ticket purchase
9 limits, including attempts from the same IP address. *See id.* ¶ 71. Plaintiffs have
10 therefore failed to adequately allege how or why Ticketmaster’s ticket purchase
11 limits are false or misleading.

12 2. The FTC Fails To Adequately Allege Ticketmaster’s Ticket
13 Limit Disclosures Are Material

14 Plaintiffs likewise fail to allege that the existence of a ticket purchase limit
15 was material to any consumer’s decision to participate in an onsale for a particular
16 event. Nor can they. A representation is material if it “involves information that
17 [would be] important to consumers and, hence, likely to affect their choice of, or
18 conduct regarding that service.” *FTC v. Cyberspace.com LLC*, 453 F.3d 1196, 1201
19 (9th Cir. 2006). Yet Plaintiffs concede that the primary market corresponds to the
20 *original* sale of the ticket, which is handled by a single issuer, such as Ticketmaster.
21 *See Compl.* ¶ 33. Because of this, the consumer would not—and could not—choose
22 to purchase a primary ticket from a different issuer based on differences in ticket
23 purchase limits.

24 The Complaint also concedes that “[f]or high-demand events, [] face value
25 prices are often only available to consumers on the primary market.” *Id.* ¶ 72.
26 Therefore, a reasonable consumer would not opt to purchase from the secondary
27 market instead, where resale prices are higher. *See id.* ¶ 73. Accordingly, there is no
28 allegation that the ticket purchase limits themselves changed consumer behavior.

1 **III. THE STATE-LAW CLAIMS (COUNTS IV - X) MUST BE DISMISSED**

2 The State Plaintiffs also assert claims under state deceptive-practices laws.
3 Because the federal claims should be dismissed, the Court should decline
4 supplemental jurisdiction over the state-law claims under 28 U.S.C. § 1337(c).²
5 Even if the Court retains jurisdiction, the state-law claims fail for the same reasons
6 as the Section 5 claims. *See* Compl. pp. 59-73; *cf. In re Dealer Mgmt. Sys. Antitrust*
7 *Litig.*, 362 F. Supp. 3d 510, 539 (N.D. Ill. 2019) (“Courts applying [state] law have
8 held that consumer protection claims based on the same factual allegations as a failed
9 antitrust claim must likewise be dismissed.”). In Florida and Utah, the deceptive-
10 practice statutes expressly incorporate the FTC Act standards by reference. *See* Fla.
11 Stat. § 501.204(1); Utah Code Ann. § 13-11-2(4). And Illinois, Tennessee, and
12 Colorado interpret their deceptive-practice statutes to mirror the FTC Act standards.
13 *See Aliano v. Ferriss*, 988 N.E.2d 168, 176 (Ill. App. Ct. 2013); *Tucker v. Sierra*
14 *Builders*, 180 S.W.3d 109, 116 (Tenn. Ct. App. 2005); *People ex rel. Dunbar v. Gym*
15 *of Am., Inc.*, 493 P.2d 660, 668-69 (Colo. 1972).³

16 Like the Section 5 claims, the state causes of action collapse into two core
17 theories: (1) alleged pricing disclosures that purportedly misled consumers about
18 total ticket prices; and (2) alleged misrepresentation about and failures to enforce

19

20 ² Under that statute, when the court “has dismissed all claims over which it
21 has original jurisdiction,” which here would be the BOTS Act and FTC Act claims,
22 the Court “may decline to exercise supplemental jurisdiction” over the state-law
23 claims. 28 U.S.C. § 1337(c)(3).

24 ³ Courts have not analyzed the Nebraska Uniform Deceptive Trade Practices
25 Act (“NDTPA”) alongside the FTC Act, but Nebraska courts’ interpretation of the
26 NDTPA demonstrates that these claims fail for the same reasons discussed above.
27 *See Homebuyers Inc. v. Watkins*, 2019 WL 2361760, at *9 (Neb. Ct. App. June 4,
28 2019) (“[NDTPA] provides relief from future damage, not past damage”).
29 Nebraska’s NDTPA theory rests on allegations about Ticketmaster’s prior fee
30 displays, which the Complaint concedes were superseded when Ticketmaster
31 implemented all-in pricing. Nebraska also cites a grab bag of subsections, Compl. ¶
32 136, but does not plead non-conclusory facts showing, for example, how
33 Ticketmaster’s challenged statements caused a likelihood of confusion as to source
34 or sponsorship under (a)(2); misrepresented characteristics or quality of goods or
35 services under (a)(5); or advertised goods “with intent not to sell them as advertised”
36 under (a)(10).

1 ticket limits. Colorado, Florida, Illinois, Nebraska, and Utah each allege both
2 theories as a basis for liability under their respective state consumer protection
3 statutes. Compl. pp. 59-73. Tennessee's claim focuses solely on Ticketmaster's
4 representation regarding purchase limits. Compl. ¶ 143. Because the Complaint fails
5 to allege that either Ticketmaster's fee disclosures or ticket limit disclosures violate
6 the FTC Act, *see supra* Section II, each of Florida, Illinois, Tennessee, Utah,
7 Colorado, and Nebraska's related state claims also fail. *See Bell v. 1220 Mgmt. Grp.,*
8 *L.L.C.*, 2018 WL 3054795, at *1 n.1 (S.D. Fla. June 20, 2018) (motion to dismiss
9 order “analyz[ing] the FDUTPA and FTC Act claims concurrently” because
10 “FDUTPA incorporates the FTC Act”); *Aliano*, 988 N.E.2d at 176 (Illinois court
11 applying FTC standard to state law deceptive conduct claim); *Tucker*, 180 S.W.3d
12 at 116 (Tennessee courts “look to the federal law” defining “deceptive” to determine
13 how they should be applied); *FTC v. Nudge, LLC*, 2022 WL 2132695, at *13 (D.
14 Utah June 14, 2022) (holding that “the standards for analyzing deceptive act or
15 practice claims under [Utah law] are generally the same as for misrepresentation
16 claims under § 5”).

17 The Utah Consumer Sales Practices Act (“UCSPA”) claim also fails. A
18 UCSPA claim requires more than “simply repackaged” deception allegations.
19 *Chadwick v. Bonneville Billing & Collections, Inc.*, 2021 WL 1140206, at *4 (D.
20 Utah Mar. 25, 2021). “[A] court must assess the circumstances of each particular
21 case in light of the twofold purpose of the doctrine, prevention of oppression and of
22 unfair surprise.” *Res. Mgmt. Co. v. Weston Ranch & Livestock Co.*, 706 P.2d 1028,
23 1041 (Utah 1985); *Gallegos v. LVNV Funding LLC*, 169 F. Supp. 3d 1235, 1245 (D.
24 Utah 2016) (“The standard for proving unconscionability [under the UCSPA] is
25 high”). Here, the Complaint merely “repackage[s] the . . . allegedly deceptive
26 conduct and call[s] it unconscionable.” *Chadwick*, 2021 WL 1140206, at *4; Compl.
27 ¶¶ 151-62. That is insufficient to state a claim.

28

CONCLUSION

The Complaint should be dismissed with prejudice.

Dated: January 6, 2026

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants Live Nation Entertainment, Inc. and Ticketmaster L.L.C., certifies that this brief contains 6,995 words, which complies with the word limit of L.R. 11-6.1.

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