July 23, 2026

VIA ECF

The Honorable Arun Subramanian
United States District Judge
United States District Court, Southern District of New York
500 Pearl Street, Courtroom 15A
New York, NY 10007-1312

Re: ***United States et al. v. Live Nation Entertainment, Inc. et al.*; 1:24-cv-03973-AS**

Dear Judge Subramanian:

Plaintiffs submit *Cumulus Media New Holdings Inc. v. Nielsen Co. (US), LLC*, 2026 WL 2014972 (2d Cir. July 13, 2026), as supplemental authority, but it provides them no support. On appeal, Nielsen did not dispute that its express policy prohibiting the purchase of one product (national market data) without another (local market data) was unlawful. *Id.* at *8. The issue was whether "Nielsen had continued to *de facto* enforce" that policy by nominally offering national market data as a standalone product but at an exorbitant price. *Id.* at *10. This case has no similar claim.

Cumulus does, however, support Defendants' post-trial motions. The Second Circuit confirmed that "an unlawful tying policy" requires proof of "actual coercion"—*i.e.*, the buyer was forced "to purchase a tied product 'that the buyer either did not want at all, or might have preferred to purchase elsewhere on different terms.'" *Id.* at *8 (quoting *Jefferson Par. Hosp. Dist. No. 2 v. Hyde*, 466 U.S. 2, 12 (1984)). The Court repeated this definition multiple times, and repeatedly emphasized that the tied product was "unwanted." *Id.* at *10, 11, 12, 13. There is no evidence of an "unwanted" product here, nor even that any artist unwillingly purchased promotion services from Live Nation. ECF-No.1500, p.12.

The Second Circuit also confirmed that "[p]revailing on a tying claim requires proof of 'anticompetitive effects in the tied market.'" 2026 WL 2014972, at *14. In a footnote, the Court expressly connected that to the concept of a properly defined tied market, *id.* at *11 n.6—something Plaintiffs do not have, ECF-No.1500, p.10. It also required proof of anticompetitive effects in that market, and to that end found Nielsen's conduct had impaired its lone rival "from achieving any measure of scale or industry-wide acceptance" in the tied market. 2026 WL 2014972, at *14. There is no evidence that Live Nation's competitors like AEG have been similarly affected in any tied promotions market, of any scope. ECF-No.1500, p.11. At most, Plaintiffs argue AEG has lost an unspecified number of national amphitheater tours, but AEG is otherwise thriving.

[signatures on following page]

Dated: July 23, 2026

Respectfully submitted,

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