

LIVE NATION/TICKETMASTER MERGER INQUIRY

Summary of hearing with Live Nation held on 16 March 2010

1. Live Nation (LN) said that Eventim's response to the CC's further provisional findings contained no new evidence and its views had already been heard and discounted. Eventim's arguments ignored the way tickets were distributed in the UK.
2. LN said that it wished to make four general points in response to Eventim's argument:
 - (a) When LN promoted an event, the venue retained a substantial share of the tickets. In this respect, the UK was not like the Netherlands, where the promoter controlled all the tickets for an event.
 - (b) There was never any prospect that LN, in the UK, would have ceased using Ticketmaster (TM) and other ticket agents to sell its tickets. LN needed to sell its tickets and it needed relationships with multiple ticket agents in order to maximize sales. LN had operated under an 'exclusive' contract with TM for ten years but, throughout that period, it had allocated a significant proportion of tickets to ticket agents other than TM. Everyone, including the OFT, recognized that there was no such thing as a truly exclusive deal in this sector. It was not remotely possible that LN would have agreed to sell all its tickets only through its own website and through Eventim.
 - (c) It was irrelevant whether or not LN's actions now were in breach of the Letter of Intent (LOI) between Live Nation and Eventim. What mattered was whether LN's behaviour was affected by the merger. As LN always intended to use other ticket agents, there was no merger effect.
 - (d) Currently, Eventim was able to sell all the tickets available through LN's website. Yet Eventim was [redacted], so consumers were buying their tickets from elsewhere. Eventim's current plight had nothing to do with LN's conduct, but was entirely self-inflicted.
3. [redacted]
4. LN said that Eventim's note of the meeting on 14 November 2007 was irrelevant given that the negotiations progressed significantly between that date and the time of signing at the end of December 2007. In particular, the US executives at the meeting on 14 November 2007 subsequently discussed the proposals with LN in the UK and received clear instructions to ensure a carve out which would allow LN in the UK to retain control over its ticket inventory and control over which sales channels it used. As an example of the uninformed nature of the discussions on 14 November 2007 with regard to the UK was the proposal for a [redacted] fee for call centre bookings, which was completely unrealistic in the UK market.
5. LN said that paragraph 5.8 of the LOI gave a clear carve out for LN to choose its own sales channels. This carve out was essential as it was inconceivable that LN would be able to maximize its sales whilst only using its own website and that of a new start-up in the UK. In the UK there is not one promoter which uses just one ticket agent. Given this carve out, it was also inconceivable that all of LN's controlled tickets would ever have been placed on Eventim's system and platform. No ticket

agent would be willing to sell tickets for LN off Eventim's system as they would lose control of the customer and, effectively, become just an affiliate of Eventim. Operating in this way might be technically feasible, but it was not commercially feasible and it had never been considered. Furthermore, if other ticket agents were meant to be excluded, like TM, they would have been mentioned explicitly. [REDACTED], LN was not in breach of the LOI.

6. LN could not say what would happen next in its relationship with Eventim. Eventim is the biggest promoter in Germany so LN's discussions with Eventim were not just about ticketing. At some stage, [REDACTED]. There had not been any discussions towards a change in either party's obligations under the LOI in the UK but, if such discussions took place, LN was confident in its position.
7. LN said that, since the Eventim system went live on 1 February 2010, there had been a catalogue of problems. The system had crashed on several occasions, often during critical Friday morning initial on-sale periods. Error messages kept popping up, often in Dutch and German. At the moment, Eventim's system [REDACTED]. Furthermore, despite being LN's ticketing partner, Eventim's website was not selling LN's tickets in any significant volume. While LN was selling around [REDACTED] tickets every week, Eventim was selling around [REDACTED]. Eventim was not marketing its website and so not even trying to sell LN's tickets. If LN had not continued to sell its tickets through TM and other ticket agents, its shows would be significantly under-sold.
8. In relation to tickets for general sale, LN said that, at the moment, it was not restricting Eventim's access to its tickets. Eventim was able to access and sell exactly the same tickets as LN and at exactly the same time. When a ticket was placed on Eventim's system for LN, it was available for sale through both LN's and Eventim's websites. At the moment, LN was not concerned about limiting Eventim's access to its tickets because the volume of sales Eventim was making was so small. In the future, LN might choose to allocate to Eventim just the minimum volume of tickets as required in the LOI.
9. LN said that tickets available for pre-sales are only made available to O2 customers (via the 'O2 Blueroom' website) or LN-registered users (via the LN website), not through Eventim's website, but they are sold from the Eventim system.
10. LN said that, in the UK, its relationship with Eventim had [REDACTED].
11. LN said that, if the merger went ahead, its intention in the UK was to continue to build the LN brand as a forum for live music. It would continue to list all live music events on its website and would continue to use the LN website as its primary sales channel for all its controlled tickets. It would continue to promote just the LN website on all event promotions, and it would continue to invest in search engine optimization to ensure the LN website was prominent when people searched for tickets online. LN would not refer people to TM, though TM would continue as a strong ticket agent in the market, selling some tickets for LN and many tickets for other live music promoters and venue operators. LN's principal interest was selling tickets so, if Eventim remained in the UK market and became a significant ticket retailer, LN would look to sell many tickets through Eventim.
12. LN said that the situation in the Netherlands and Sweden was very different to the UK. In both the Netherlands and Sweden, LN had a high share in the promotion of live music events and, in the Netherlands, the promoter controls all the tickets. Therefore, in both markets, LN was able to direct consumers to wherever those tickets were to be sold.