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## DECLARATORY RULING

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Live Nation – Advertising Rights

Agenda # 11/28/2023-2-002

### Question Presented

If Live Nation obtains an interest in a licensed retailer, may it avoid a tied-house problem by selling its right to advertising and sponsorship revenue at its concert venues to an unrelated third party for a flat fee?

### Statement of Facts

Live Nation is a publicly traded company that promotes live entertainment events and operates concert venues throughout the United States, including nine in New York State (hereinafter “Venues”) featuring seating capacity ranging from 650 patrons to over 25,000 patrons per event.

Historically, Live Nation has contracted with third-party providers to run the food and beverage facilities at the Venues, with each such provider obtaining its own on-premises liquor license. Live Nation enters sponsorship arrangements with alcoholic beverage manufacturers and wholesalers from which it receives revenue in exchange for sponsorships, naming rights, and advertising rights.

Live Nation is contemplating a change in its operating structure, which would result in obtaining an interest in a retail licensee such that it would be prohibited from entering into sponsorship agreements with licensed manufacturers and wholesalers. To avoid a tied-house violation, Live Nation proposes assigning each Venue’s right to sell advertising space, sponsorships, and naming rights to a privately owned third-party entity (hereinafter the “Sponsorship Agency”) that would have no interest in any liquor license on any tier, and in which Live Nation would have no ownership interest and no shared officers.

The Sponsorship Agency will pay Live Nation a flat fee for these rights. The Sponsorship Agency would then be free to negotiate advertising contracts and sponsorship rights with licensed suppliers and wholesalers.

### Applicable Law

Section 101(1)(c) of the Alcoholic Beverage Control Law states that it shall be unlawful for a licensed manufacturer or wholesaler to “...make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this chapter which in the judgement of the liquor authority may tend to influence such licensee to purchase the product of such manufacturer or wholesaler...”

Section 106(13) of the Alcoholic Beverage Control Law provides, “No retail licensee for on-premises consumption shall be interested, directly or indirectly, in any premises where liquors, wines or beer are manufactured or sold at wholesale, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means...”

Rule 86.1 provides in part, "No manufacturer or wholesaler shall, directly or indirectly, give any article or thing of value, or render any service of any kind, to any retailer, except as permitted by this rule. No retail licensee shall accept any such gift or service of any kind whatsoever, except as permitted by this rule."

#### Determination of the Authority


Live Nation may sell or assign to the Sponsorship Agency for a flat fee the advertising/sponsorship rights to the Live Nation Venues. Live Nation will have no control over the subsequent sale or assignment of the sponsorship rights to other entities. None of the owners or officers of the Sponsorship Agency may have any interest in a licensed manufacturer, wholesaler or retailer. The Sponsorship Agency may then negotiate with and sell advertising space at the Venues or sponsorship rights to the brands in exchange for U.S. currency. The Sponsorship Agency will have no authority to commit Live Nation or its co-licensees to purchase or sell any specific type or brand of alcoholic beverage. Having an interest in a retail license, Live Nation is precluded from receiving any money, gift or service from an alcoholic beverage manufacturer or wholesaler.

Based upon, and as limited by the foregoing, the Members find that the sponsorship arrangement would suffice to insulate the owners of Live Nation from having any prohibited tied-house interest and that the flat fee provided by the Sponsorship Agency to Live Nation as well as the advertising revenue flowing to the Sponsorship Agency does not constitute a prohibited gift or service. This Ruling is limited to the facts and the parties set forth in the request and shall not be considered as approval for any other proposal.

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This matter was heard and determined by the Members of the Authority at a Full Board meeting held on November 28, 2023 before Chair Lily Fan and Commissioner Edgar De Leon. The above written ruling was approved by Chair Fan on behalf of the Members on April 8, 2025.

Dated: 06/23/25

  
Donald R. Roper  
Secretary to the Authority