



Law Department

Vanessa R. Chavez
City Attorney

August 5, 2019

U.S. Department of Justice
Antitrust Division
ATR.MEP.Information@usdoj.gov

VIA E-MAIL ONLY

Re: Consent Decrees in United States v. ASCAP, 41 Civ. 1395 (S.D.N.Y.), and United States v. BMI, 64 Civ. 3787 (S.D.N.Y.)

Dear Interested Parties:

The purpose of this correspondence is to submit the City of Green Bay's comments in opposition of extinguishing the consent decrees in the above-referenced matters ("Consent Decrees").

The City of Green Bay, WI has robust Parks Department programming, providing recreational opportunities to the entire metropolitan area, including underserved populations. This programming occasionally requires music including for the City's dance program practices and recitals, children's carnival, movie nights, at the City's amusement park, and in City-sponsored fitness program. The Consent Decrees have proven cost-prohibitive to the City of Green Bay, even when attempting to utilize the negotiated government rates through IMLA. The City frequently has to engage external music services to ensure licensing standards are met, raising the costs of all of its programming. Otherwise, the City limits its use to material in the public domain, or goes without. Neither option have proven beneficial.

We are aware of countless studies which demonstrate that music has proven health benefits, such as improved mood, reducing stress and lessening anxiety, easing pain, etc. However, the ability to use music to promote these benefits within our community is minimized by the difficult and cost-prohibitive practices of the existing music industry standards. The decrees do not take into consideration the public nature of governmental use of music, the benefits derived by the community, or the zero-profit, non-political nature of the use. If the decrees are revised, it should be to give greater flexibility to local governments to adequately serve the needs of their communities. However, merely extinguishing the decrees would create further inequities in fair use.

Problematically, the current decrees are inadequate to protect local governments from predatory practices. The City is but one of many who are constantly harassed by PROs such as SESAC. Years ago, SESAC sent a demand that the City either obtain a license from it or face an action for playing music licensed by it. Staff unfamiliar with these predatory practices and short on

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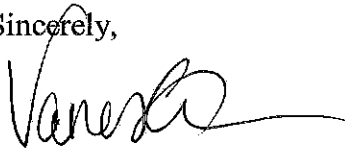
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resources to confirm whether the allegations were true, elected to go the simple route and obtain a license. However, it was later determined that the City has not and does not use any music licensed by SESAC. Instead, the City fell victim to SESAC's predatory practices of sending demands to random staff members who are eager to avoid a lawsuit, often without seeking legal counsel. More importantly, despite the City notifying SESAC in 2016 that it did not and does not use SESAC's licensed music and terminating the agreement at that time, SESAC still continues to send invoices to the City hoping that an unknowledgeable employee will unwittingly pay the false invoice. Multiple cease and desist letters have been sent to SESAC which have all been ignored, and instead the company redirects its invoices to different departments in violation of the cease and desist notice.

Local governments are stewards of the public trust. Our resources are limited and few, and wasting time addressing predatory practices of an industry is a stain on our nation that we should be ashamed to allow to exist. I have no doubt the frequency of these terrible practices will only increase if the Consent Decrees are extinguished. Instead, the remaining PROs should be addressed to bring the industry back into line. Taxpayers should not have to pay to address these predatory practices brought against their municipalities, and which take away from the protection of life and safety.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vanessa', with a long, sweeping horizontal line extending to the right.

Vanessa R. Chavez
City Attorney