

From: Jim Kristian <Jim [REDACTED]>
Sent: Wednesday, August 7, 2019 2:23 PM
To: ATR-LitIII-Information (ATR) <ATR.LitIII.Information@ATR.USDOJ.gov>
Cc: Joe McIalwain <joe [REDACTED]>; Matt Keller <mat [REDACTED]>; Gillian Jones <gi [REDACTED]>
Subject: BMI/ASCAP Consent Decree

I am writing you in regard to the consent decree that DOJ is in the process of reviewing. Ending the antitrust consent decree for BMI and ASCAP would do significant harm to venues and performance organizations and also significantly impact the ability of non-profit arts organizations like ours to offer the services we offer to the communities we serve. I have provided a statement below that was sent to us by a similar organization which we support and agree with, so please carefully consider what this would do to the arts community when making that decision.

We wanted to make you aware of an issue regarding the Performing Rights Organizations (PRO) BMI and ASCAP that could have a significant impact on the concert industry. The U.S. Department of Justice is considering ending the Antitrust Consent Decrees which have regulated both BMI and ASCAP since the early 1940s. These Consent Decrees require, among other things, that both organizations provide licenses to anyone who requests a license and to apply standardized fees for the performance of works by similarly situated licensees. The termination of the Consent Decrees would allow these PROs to significantly increase rates without any of the judicial or DOJ oversight required under the Consent Decrees, allow differing fees between presenters and give them the ability to decline licenses potentially giving the PROs the ability to control which acts presenters may hire. This could also create significant uncertainty in how venues and promoters would license performance rights for events going forward. BMI is in the Rate Court right now requesting licensing fees that include percentages of additional revenue earned from secondary markets, sponsorships, VIP packages, ticket broker charges and other relevant streams of income. Although we do not know how the Rate Court will decide this issue, without judicial oversight under the Consent Decrees, it will be much easier for the PROs to pursue these additional revenue streams.

Thank you for your consideration on this issue and we look forward to DOJ resolving this issue.

Jim Kristian

Director of Patron Services
Edmonds Public Facilities District /
Edmonds Center for the Arts
425.275.9480 (direct)
425.275.4485 (main)
425.275.9595 (box office)
jim@ec4arts.org

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