

From: Angela Chastain [REDACTED] >
Sent: Friday, August 9, 2019 3:12 PM
To: ATR-LitIII-Information (ATR) <ATR.LitIII.Information@ATR.USDOJ.gov>
Subject: ASCAP and BMI Consent Decrees Continue to Serve Small Business Owners

Dear Assistant Attorney General Makan Delrahim,

COMMENTS OF Angela Chastain, Grinder House Coffee Shop, LLC, Owner
Submitted in Response to the U.S. Department of Justice Antitrust Division's
June 5, 2019, Solicitation of Public Comments Regarding the Pro-Competitive Benefits
of the ASCAP and BMI Consent Decrees

I respectfully submit these comments as a Coffee Shop owner from Crossville, Tennessee, that licenses music to support artists and make the customer experience enjoyable. I write today to urge the Department of Justice to preserve and protect the pro-consumer consent decrees governing the American Society of Composers, Authors and Publishers (ASCAP) and Broadcast Music, Inc. (BMI).

Together, ASCAP and BMI control nearly ninety percent of the music licensing business, and these decrees serve the public interest by providing essential protections from anti-competitive behaviors. The consent decrees, in particular, prohibit ASCAP and BMI from discriminating against similarly-situated music users; ensure reasonable royalty rates; and require that every business—no matter how large or small—can get a license upon request.

While far from perfect, ASCAP and BMI provide an efficient way for Owner to play music while ensuring we compensate the songwriters and copyright holders who create it. Their blanket licenses, made possible by the decrees, underpin the music licensing system. Terminating or sunseting the decrees would lead to chaos for the entire marketplace, jeopardizing the licensing system as we know it.

This disruption would make it impossible to pay for the music played for our patrons' enjoyment. We received letters threatening lawsuits against us for open mic nights we held and had been established by previous owner of shop. He had never paid any of these fees and we felt pressured to start paying when we heard through the grapevine that another local venue had been sued and heavily fined. Without the decrees in place, the harassment from ASCAP and BMI will only get worse. Before we decided to pay their fees, we briefly stopped all live performances in our establishment while we assessed the pros and cons of having these music nights. This was not enough to stop the harassment as we were still threatened for playing internet radio (Pandora) as background music for the enjoyment of our guests. According to these "organizations," we still had to pay licensing fees. Based on this information, we agreed to pay and began the Songwriter Show, supporting local artists by providing a venue for them to showcase their talent for tips paid by our guests. In order to keep paying artists, it is vital that these decrees are not eliminated or sunset.

Many businesses that regularly play and license music already face ongoing challenges when working with ASCAP and BMI. The outcome of terminating the consent decrees would further exacerbate these burdens.

As it stands today, business owners lack access to essential, reliable information about what each performance rights license entails and, as a result, cannot make an informed decision when seeking to license music from any one of the ever-increasing number of music licensing collectives. It is impossible

to tailor my licenses based on the needs of my business. I should be able to license with only one licensing organization rather than all of them. Given this long-standing lack of transparency and ASCAP and BMI's reliance on heavy-handed tactics and take-it-or-leave-it demands, many businesses have dropped music altogether. Without the consent decrees, many more businesses would discontinue music, resulting in fewer places across our communities for musicians to perform and decreased songwriter compensation.

In considering the future of the ASCAP and BMI consent decrees, I would like the Justice Department to know that the consent decrees are important because Tourism is and has proven vital to the economic growth here in Tennessee. The Tennessee Music Pathway, founded and heavily promoted by the department of Tourism. Economic development would suffer devastation if small "mom and pop" shops such as Grinder House are subject to these unrealistic fees. We would have to forfeit these Friday night shows in the rural area of Cumberland County, TN where art, culture and entertainment venues are scarce to begin with. It will impact economic growth for all of Small Town, USA. Never has our passion to provide this service for the artist or the listeners been about making big money. It's a passion of love for building community, unity and hope..

Just as the Department of Justice concluded less than three years ago and after a two-year review, the ASCAP and BMI consent decrees continue to be relevant and necessary today and in the future. We ask the Department of Justice to protect our ability to play music, host new and upcoming artists, and ensure these pro-consumer decrees are protected.