



August 8, 2019

The Honorable Makan Delrahim  
Assistant Attorney General  
U.S. Department of Justice  
Antitrust Division  
95 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Assistant Attorney General Delrahim:

Luther Burbank Center for the Arts (LBC) submits this public comment for the following:

*To respectfully urge the U.S. Department of Justice Antitrust Division (US DOJ) to **continue to uphold the consent decrees** which have regulated the Performing Rights Organizations BMI and ASCAP since 1941.*

These decrees provide necessary protections against anticompetitive behavior and continue to play an integral role in facilitating fair and equitable music licensing for music performances in the United States.

LBC is an independent, not-for-profit arts center located in Santa Rosa, CA. We support artists and musicians, hosting nearly 200 events and serving over 500,000 people from the North Bay and beyond each year. A significant portion of our resources are devoted to providing quality education and family programs on our campus and in the community, which support over 80 different school districts in multiple counties, including Sonoma, Marin, Mendocino, Lake and Napa. Through our numerous, year-round programs we provide comprehensive arts and education experiences to over 50,000 students, teachers and families annually.

LBC plays a vital role in our region's health and arts ecology, providing music entertainment as part of our mission to enrich, educate and entertain our community. As a non-profit arts organization—not owned by nor affiliated with any government agency or municipality—we must continually fundraise to support our programs, our staff and the maintenance of our 45-year-old facility.

Ending this decree would severely and adversely impact LBC as well as all other non-profit, educational, community, state and national performance venues, as well as restaurants, hotels, breweries, wineries, and bars across the entire nation. It would allow BMI and ASCAP to increase fees, without any judicial or DOJ oversight, to every performance venue, thereby

raising tickets prices for consumers. In addition, it would endow BMI and ASCAP with the ability to unfairly control the performing artists that venues may hire.

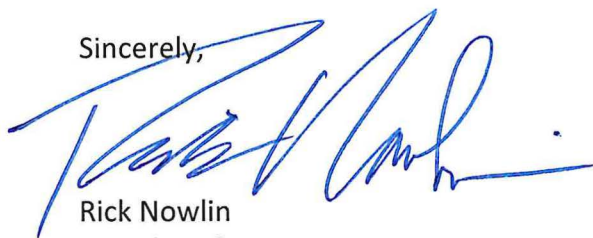
Terminating the consent decrees would disrupt the music marketplace and jeopardize the LBC's ability to license music for public performance. This will impact not only LBC but also our resident companies and other non-profit users of the facility, as well as the entire arts and culture community in the North Bay region. This will create significant uncertainty in how venues and promoters would license performance rights for events, and it could threaten the financial viability of many organizations nationwide if BMI and ASCAP lack DOJ supervision over their licensing of over 90% of all music performance rights. LBC strongly encourages the DOJ keep the consent decrees in place.

The consent decrees promote competition and mitigate market abuses by requiring all licenses be non-exclusive and all license requests be granted. Further, by stipulating for judicial oversight, the consent decrees provide a necessary check on BMI and ASCAP by providing an avenue to settle rate disputes for all licensees outside of private arbitration. In an industry already heavily skewed in favor of BMI and ASCAP, the limitations imposed by the consent decrees ensure smaller venues can still afford to provide patrons with performed musical content.

Market conditions have not changed to warrant termination or alteration of the consent decrees. BMI and ASCAP continue to monopolize the ownership of performance rights in the music industry. Because the consent decrees continue to serve the music industry and the general public at large, we urge the DOJ to follow its precedent in upholding the consent decrees. As the DOJ stated just three years ago, "the current system has well served the music creators and music users for decades and should remain intact."

Thank you for your consideration of LBC's comments on the consent decrees.

Sincerely,



Rick Nowlin  
President & CEO  
Luther Burbank Center for the Arts

XC: Senator Dianne Feinstein  
Senator Kamala D. Harris  
Congressman Mike Thompson