

From: Fliss, Eric (CUA) <Er [REDACTED]>
Sent: Thursday, August 8, 2019 1:07 PM
To: ATR-LitIII-Information (ATR) <ATR.LitIII.Information@ATR.USDOJ.gov>
Cc: Spring, Michael (Office of the Mayor) <Mic [REDACTED]>; Leslie, Marialaura (CUA) <[REDACTED]>
Subject: Antitrust Consent Review ASCAP and BMI

To Department of Justice Antitrust Division,

I am writing on behalf of The Miami-Dade County Department of Cultural Affairs which manages a portfolio of community based performing arts centers in Miami-Dade to express my opposition to any change to the Antitrust Consent Decrees that have regulated the Performing Rights Organizations (PROs), including Broadcast Music Inc. (BMI) and the American Society of Composers Authors and Publishers (ASCAP), since the early 1940s.

The Department of Cultural Affairs supports the right of creators and artists to be compensated for their work, and the performance of their work, but it must be reasonable. This is a cash grab, pure and simple. It would cause irreparable harm to the music industry, especially in the nonprofit sector.

The termination of the Consent Decrees would allow the PROs to significantly increase rates without any judicial or DOJ oversight. It would also allow the PROs to charge different fees to similar presenters. It would give the PROs the ability to decline licenses, in effect giving the PROs control over which acts are available to specific communities nationwide. This seems contrary to a free market, and very undemocratic.

BMI is in the Rate Court right now requesting the addition to their licensing fees of ancillary incomes from hospitality and other services that have nothing whatsoever to do with the creation or performance of music and art. 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 claims.

The Consent Decrees must remain in place.

Thank you for your consideration in this matter.

Sincerely,

Eric Fliss, Managing Director
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