

**From:** Steve Bennett <[REDACTED]>  
**Sent:** Friday, August 9, 2019 2:32 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 Steve Bennett, Mill Town Music Hall, General Manager  
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 I am the General a Manager of a live music venue owner from Hiram, Georgia, 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 General Manager 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 my business a place that is less appealing to my customers and therefore impacting my bottom line. We were bullied into purchasing blanket music licenses from both organizations. Both threatened to sue us for \$10,000 per song performed from their catalog if we did not purchase their blanket license. ASCAP tricker is I to paying 3 years in retroactive fees by a deceptively written contract costing us an additional \$8000 Without the decrees in place, the harassment from ASCAP and BMI will only get worse. No. We are a live concert venue, so we have to come at the fees 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 In considering the ASCAP and BMI consent decrees, I would like the Department of Justice to know the ASCAP and BMI consent decrees are important to me because their fees are already excessive. We currently pay each organization between \$7000 and \$10,000 annually and have no specific proof of which of their songs are being performed at our venue. In addition to that, there is no way the organizations can fairly compensate their artists based on the actual music performed because the organizations do not actually know which songs are performed.

Artists depend on the ability to perform concerts to survive, and these fees limit the ability for artists to perform live. The excessive fees venues have to pay limits the number of concerts we can host..

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.