

PORTLAND'5

CENTERS FOR THE ARTS



August 8, 2019

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

Dear Assistant Attorney General Delrahim:

Portland'5 Centers for the Arts ("Portland'5") submits this public comment to respectfully urge the U.S. Department of Justice Antitrust Division ("US DOJ") to continue to uphold the ASCAP and BMI consent decrees. 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.

Portland'5 is a part of Metro, a regional governmental entity, located in downtown Portland, Oregon. It brings over 1,000 music, theater, dance and lecture performances to Portland each year and is the 5th largest performing arts center in the U.S. Portland'5 runs five venues that draw over one million patrons each year. Portland'5's Education and Community Engagement programming provides free performances at the venues and in the community for over 14,000 students and staff at Title I schools targeting students from communities of color and low-income households. Portland'5 also subsidizes resident companies such as the Oregon Symphony, Portland Opera, Oregon Ballet Theater, Oregon's Children's Theater and the Portland Youth Philharmonic. Portland'5 is home to the Broadway in Portland Series. Portland'5 not only provides rental space but also promotes shows through Portland'5 Presents.

Terminating the consent decrees would disrupt the music marketplace and jeopardize Portland'5's ability to license music for its performances for the community. This impacts Portland'5's resident companies, non-profit users and Education and Community Engagement program. Ultimately, this will significantly impact the culture and arts community in the Portland Metropolitan region if BMI and ASCAP lack DOJ supervision over their licensing of over 90% of all music performance rights. Portland'5 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 ASCAP and BMI by providing an avenue to settle rate disputes for all licensees outside of private arbitration. In an industry already heavily skewed in

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favor of ASCAP and BMI, 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 music creators and music users for decades and should remain intact."

Thank you for your consideration of Portland'5's comments on the consent decrees.

Sincerely,

Robyn Williams, CVE

Executive Director, Portland'5 Centers for the Arts

cc: Jeff Merkley, U.S. Senator of Oregon
Ron Wyden, U.S. Senator of Oregon
Suzanne Bonamici, Oregon Congresswoman
Earl Blumenauer, Oregon Congressman
Peter DeFazio, Oregon Congressman
Kurt Schrader, Oregon Congressman
Greg Walden, Oregon Congressman