

**From:** Abigail Clark <Abigail.Clark.209402 [REDACTED]>  
**Sent:** Friday, June 21, 2019 1:48 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 Abigail Clark, REININGER Winery, Marketing & Event 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 Event Manager at a winery in Washington in charge of booking music for events. owner from Walla Walla, Washington, that licenses music for the enjoyment of our customers (background music). 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 Marketing & Event 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, impacting my bottom line. Yes, we had advertised our first event that was open to the public and both ASCAP and BMI demanded we pay for a license to have live music. We had booked a local band that doesn't play covers and were told that band had every right to contact them and sue for rights to their own songs and in turn sue us to play at our venue. Without the decrees in place, the harassment from ASCAP and BMI will only get worse. yes, we did the one event that was open to the public and will not do events with music moving forward because we cannot afford the license fees they were demanding as a small family-owned winery. We only wanted to play live music a couple times a year and their license they required was if we had more than 12 performances a year. 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. I only play

music a few times a year and ASCAP and BMI still want outrageous licensing fees. 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 we would love to provide a wonderful and unique experience to our consumers while also competing with our local competition, but the consent decrees make it hard for a small business to afford future licensing..

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.