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**Sent:** Sunday, June 9, 2019 4:59 PM  
**To:** ATR-LitIII-Information (ATR) <ATR.LitIII.Information@ATR.USDOJ.gov>  
**Subject:** Public Comment on policy review re: BMI, ASCAP Consent Decree

The DOJ is opening for comment its preliminary process relating to BMI and ASCAP consent decisions. Under that decree, these agencies have the SOLE functional authority to determine by their fee structures and subsequent enforcement whether a venue can offer live music that includes copyrighted material or not. Recent activities by these organizations have been so overtly threatening certain states (including Oregon) have found it proper to limit the bullying actions of "enforcers". Nonetheless, the fee structures, largely assessed on the basis of the local fire department's renditions of seating capacities (as opposed to actual occupancy) have become unrealistic for many of our own small venues and are preventing the presentation of copyrighted live music. While the concept of remuneration for intellectual property is not being challenged, the arbitrary fee structures for those performance rights are neither reflective of potential rewards to venues who offer live music (receipts), nor at all relevant to any specific "damages" to copyright holders that could be attributed to their performance in a particular small venues. Further, these are blanket assessments made and offer no opportunity that performances and the accrued arbitrary fees assessed by licensing organizations be "pro-rated" as it pertains to performing artists' original material vs. material already copyrighted by others - "covers" as commonly referred to.

Oregon has a vibrant music performance community of national repute, yet venues that are allowed to offer these same entertainments as a cultural service to both audiences and the creators of music plying their trade and honing their own art are falling like flies because of the current unrealistic fee structures that stand unchallenged. Not only is the "trade" of venues and artists being "restrained", but so is the fundamental performance process that underwrites the creation of original material itself. The trade and the muse reside ALWAYS - in the many small venues where aspiring artists hone their craft - and create the material that licensing agencies will inevitably someday be the "collection agent" for.

Thank you in advance for something more than a "boiler plate" response.

Richard Silen

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