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Sent: Thursday, August 8, 2019 4:25 PM
To: ATR-LitIII-Information (ATR) <ATR.LitIII.Information@ATR.USDOJ.gov>
Subject: Keep the Consent Decrees for ASCAP and BMI

To whom it may concern
Department of Justice

As a representative of the largest nonprofit performing arts organization in the state of Delaware, I am writing to you today to express my grave concern over the possibility of the lifting of the Antitrust Consent Decrees on ASCAP and BMI. The lifting of these decrees could have a profound and devastating effect on our ability to provide music to our community. At a time when we are already buffeted by powerful market forces that make it difficult to control costs, and with a licensing environment that already takes an unreasonable cut of our revenues, the free-for-all that would exist if these institutions were allowed to set their own terms would be ruinous. We wanted to make you aware of an issue regarding the Performing Rights Organizations (PRO) BMI and ASCAP that could have a significant impact on the concert industry.

These Consent Decrees require, among other things, that both organizations provide licenses to anyone who requests a license and to apply standardized fees for the performance of works by similarly situated licensees. The termination of the Consent Decrees would allow these PROs to significantly increase rates without any of the judicial or DOJ oversight required under the Consent Decrees, allow differing fees between presenters and give them the ability to decline licenses potentially giving the PROs the ability to control which acts presenters may hire. This could also create significant uncertainty in how venues and promoters would license performance rights for events going forward. BMI is in the Rate Court right now requesting licensing fees that include percentages of additional revenue earned from secondary markets, sponsorships, VIP packages, ticket broker charges and other relevant streams of income. 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 additional revenue streams at the expenses of small businesses and nonprofits providing these services to their respective communities.

We urge that the Consent Decrees be kept in place to preserve the benefits for average citizens and arts consumers.

Thank you for your consideration.

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