



Yakima Theatres, Inc.

KATHI D. MERCY PRESIDENT
(509) 248-1360 FAX (509) 453-3074
P.O. BOX 50 • YAKIMA, WA 98907



July 25, 2019

Yakima Theatres, Inc. submits these comments for consideration in connection with the Justice Department, Antitrust Division's review of the ASCAP and BMI Consent Decrees. For background, Yakima Theatres is a family-owned business established in 1912 in Yakima, Washington. We operate three theaters in the greater Yakima area, serving a population of around 100,000. Like many small businesses, we are an integral part of our community.

Yakima Theatres agrees with and endorses the Comments submitted by the National Association of Theatre Owners ("NATO") on July 24, 2019, on behalf of its members. As submitted by NATO, maintenance of the ASCAP and BMI Consent Decrees, and particularly the Movie Theater Exemption, is critical to our business. Most importantly, as exhibitors, movie theaters have neither the resources nor information necessary to investigate, negotiate or individually pay for license fees on music that already has been selected for and incorporated into the movies that we rent for exhibition. To the contrary, we necessarily rely on movie producers to select and negotiate the rights for any music incorporated into the movies they produce, and to include those license fees in the movie rental fees then charged to movie theaters. Without the Consent Decrees and Movie Theater Exemption, movie theaters such as ours would be placed in the impossible position of having to identify, after a movie has already been completed without the movie theater's involvement or control, the stakeholders with whom music-related licenses would need to be negotiated, and to engage in expensive and time-consuming negotiations without any control or leverage because we are prohibited from changing the movies we rent for exhibition.

As a small, independent theater owner, maintaining the ASCAP and BMI Consent Decrees and the Movie Theater Exemption is especially important to our ability to continue to stay in business. Because our business runs on tight margins, even incremental changes in the license fees applicable to the movies we exhibit can have an out-sized impact on our bottom line. We do not have information or resources to identify and catalog the individual music and related artists and or other rights holders for music incorporated into the movies we exhibit. Moreover, we do not employ personnel (or in-house attorneys) with experience and knowledge necessary to negotiate individual music licenses. And, even if we could reasonably identify the necessary rights holders, because the movies we license for exhibition are already completed (and we are contractually prohibited from modifying such movies, including their soundtracks), we would have no realistic ability to decline or negotiate down any proposed royalty rate. Likewise, requiring movie theaters such as ours to pay "blanket" license fees to ASCAP or BMI on top of the fees we already pay to movie studios for the rights to exhibit movies would force us to either charge higher ticket prices to consumers or absorb these added—and unpredictable—fees, likely forcing many theaters to reduce operations or, worse, go out of business.

Yakima Theatres joins NATO in urging the Antitrust Division to allow the ASCAP and BMI Consent Decrees, and the Movie Theater Exemption, to remain in place.

Sincerely,

YAKIMA THEATRES INC.

Kathi D Mercy
President