



Department of Justice

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JUSTICE DEPARTMENT AGREES TO MODIFY BROADCAST MUSIC INC. 1966 CONSENT DECREE

WASHINGTON, D.C. -- The Justice Department's Antitrust Division has given preliminary approval to letting a court decide what fees should be paid for the commercial use of music when the user and the licensing organization, Broadcast Music Inc., are unable to agree on what the royalty should be.

The Department, in documents filed Wednesday, June 29, in U.S. District Court in Manhattan, agreed to a proposed modification of a 1966 consent decree involving licensing to broadcasters of music performance rights by Broadcast Music Inc.

The proposed modification provides a mechanism to enable the court to set an appropriate licensing fee when BMI and a potential licensee are unable to agree on a fee.

In court papers, the Department stated that such a "rate court" has long been used in resolving licensing disputes with the American Society of Composers, Authors and Publishers, a similar music licensing organization.

The complaint which initiated the BMI case in 1964, alleged that BMI and its broadcaster-owners had combined to restrain and

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monopolize the business of acquiring and licensing to broadcasters' copyrighted music rights.

The case was settled by a consent decree in 1966. The judgment required BMI, among other things, to offer various types of licenses for music performing rights and to refrain from discriminatory pricing.

Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division, said, "BMI should be afforded the same opportunity for judicial resolution of licensing fee disputes that has been provided to their counterpart, ASCAP."

The Department has reserved the right to withdraw its consent for at least 10 days after the close of the 60-day public comment period which the Department has requested the court to establish. Public comment on the proposed judgment modification is invited within that period.

Interested persons may address comments to Gail Kursh, Chief, Professions and Intellectual Property Section, Antitrust Division, U.S. Department of Justice, 555 4th Street, N.W., Washington, D.C. 20001.

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