



August 6, 2014

Chief, Litigation III Section  
Antitrust Division  
U.S. Department of Justice  
450 5th Street NW, Suite 4000  
Washington, DC 20001

To Whom It May Concern:

I appreciate the opportunity to write on the topic of the current consent decrees affecting the performance rights organizations (“PROs”) in the music publishing sphere. I currently serve as the Director of Income Tracking at Spirit Music Group, an independent music publishing company. The landscape of music performance has changed so much in last few years that the current consent decrees are no longer effective for music publishers or songwriters. Music publishers, songwriters and even music users need PROs more than ever to help license our music on a bulk basis at a fair rate. But with the current consent decrees, the PROs are handcuffed, as they are not able to negotiate a fair market rate for digital performances of our songs.

Spirit Music Group has a catalog that includes songs by both iconic writers like Pete Townshend and up and coming artists like Matt & Kim and Zooey Deschanel. We have fewer than 40 employees worldwide, with about half based in our New York office, and our market share is in the single digits. Given our size, every penny is important to us, and we rely on performance income as a key financial driver. In the past and currently, the main income streams from ASCAP, BMI and SESAC have been from radio, television, concerts, and other venues where music is performed publicly. These organizations have been effective in tracking and collecting money from these third parties.

But with the advent of digital technology, new companies and products are popping up at a rapid rate, allowing consumers to stream and download millions of songs. The most powerful companies in the technology world have partnered with some of the most active players in streaming music, so there is more manpower and capital behind these services than ever before. If a performance rights organization cannot make a licensing deal quickly with these new licensees, the licensee can go to rate court, the result of which is often a below market rate paid to publishers and songwriters, as in the recent Pandora ruling.

While the performance rights organizations remain vital to our company to efficiently license our songs, these organizations are forced to license under a consent decree rate-setting process that affords them no negotiating power, often resulting in inequitable royalty rates. This is akin to an unfair compulsory license. A company the size of Spirit does not have the resources to take part in these proceedings. We need the PROs to be able to license fairly and quickly in a free market, to ensure fair and proper distribution of performance income, and this can only be done if the consent decrees are modified, and the outdated rate setting rules are changed.

Many of these digital music services are being bundled with new products and delivery systems such as phones and other mobile technology. With these bundled products, more than one type of right becomes implicated, so there is a need for more than one license. It makes sense for an organization such as a PRO to assist independent publishers with licensing these bundled rights. And with increased broadband in more places, such as underground trains in major cities and new

expansion to communities that never had broadband connections before, songs will be available digitally to more people than ever before, so we need the PROs to help us mass license our music sooner rather than later.

For many songwriters and artists, quarterly performance income from a PRO helps to pay their studio costs and touring budgets, not to mention everyday living expenses. With digital performances increasing and radio being used less and less, a change in the scales must occur now. If these artists are not paid fairly by streaming companies, they will not be able to afford to create new songs, which fuel the streaming market and bring joy to people all over the world. We can't afford to lose new music, just as music publishers and songwriters can't afford to live with the current rate system under the consent decrees.

Best,



Dileepan Ganesan  
Director Of Income Tracking, Spirit Music Group