Re: Justice Department Review of the ASCAP and BMI Consent Decrees

To the Chief of the Litigation III Section:

Each of us is a songwriter and a member of ASCAP, an association that we are proud to be a part of and that we greatly value.

We write today in response to the Justice Department’s request for public comments on the issue of whether ASCAP and BMI’s consent decrees should require the PROs to license on a 100% basis, as opposed to fractionally licensing jointly-owned songs, which has been the historical industry practice. It’s critical that our voices are heard, because a shift to 100% licensing would negatively impact our creative freedom, our ability to choose which PRO licenses our music and, ultimately, our livelihood as songwriters.

Songwriters are the ultimate small business owners. Many of us have families that depend on the income we receive from ASCAP. We have carefully chosen ASCAP as our PRO for multiple reasons: the trusted relationships we’ve developed there; the opportunities ASCAP provides for our music to be heard; the various training and networking opportunities ASCAP provides; and ultimately, the way ASCAP values our music and fights for writers to get fees that reflect the fair value of our work.

Like most modern songwriters, we often choose to collaborate with other writers. Just recently, every song in the Top 10 on Billboard’s Pop, Country, Christian, and R&B/Hip-Hop charts was the result of collaboration. If the practice of 100% licensing is mandated by the Justice Department, our co-written works could be licensed – and we could be paid – by a PRO that represents our co-writers’ interest in our songs. The licensing fee the other PRO charges might be lower than the one ASCAP has negotiated or fought for in rate court, and despite our chosen affiliation, we would have to accept the lower fee. Because ASCAP values music differently than other PROs, we also wouldn’t be able to keep the benefits of ASCAP’s specific valuation system.

As a result, having our work licensed by a different organization than the one each of us has chosen could dramatically affect our income. It could delay and potentially lower our royalty payments, which would now have to flow through two PROs. Somehow we would each have to monitor what we are being paid by a PRO we have no relationship with, figure out whether they have missed any of our performances, understand how and when they will pay us, determine whether we are getting our fair shares of bonuses under the other PRO’s distribution system, and so on. For these reasons, it might no longer be financially viable for any of us to collaborate with a writer outside of ASCAP.

It also might not be creatively viable either. Successful songwriting means being able to work with songwriters of our choosing, regardless of their PRO affiliation. If the 100% licensing model were imposed on the PROs, in order to keep our work entirely within ASCAP, our PRO of choice, we would have to collaborate only with fellow ASCAP writers. All of a sudden, our individual and careful choice of collaborator would not be driven by artistic chemistry or compatibility, but by rules imposed by the government. The 100% licensing model allows the government to interfere with the creative process and effectively dictate our collaborators and our licensing representatives.

As we understand it, music users from radio to digital music services to local television have all traditionally paid the PROs according to their respective shares of the music. Similarly, ASCAP has only ever paid us for our shares of co-written songs. What the Justice Department is contemplating is in stark contrast with how the PROs have been conducting business for decades and would wreak havoc in the songwriting world.

We urge you to carefully consider your decision and take seriously the impact it will have not only on all songwriters across our nation, but also on our creative contributions to American culture and music lovers around the world. Without the freedom to collaborate and choose representation, the profession of songwriting is in jeopardy, as is the music that touches all of our lives.

Sincerely,
Joshua Brochhausen
Gary Brockhoff
Jeff Brockmeyer
Preston Brogdon
Lauren Brombert
Tom Bronzetti
Don Brooks
Marcus Brooks
Charles Brotman
Timothy Brown
Kory Brown
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kevin lee
Steven Lefebvre
James Legg
Joseph Lehman
John Lehmkuhl
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Flavio Lemelle
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Meridith Lepe
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David Levinson
Howard Levitsky
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Robert Levy
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Crystal Lewis
Carl Lewis
Timothy Lewis
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Mario Licciardoni
Lowell Liebermann
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Michael Liljestrom
Marisol Limon
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Matt Lindsey
Daniel Lipton
Lisa Litman
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Scott Livolsi
Joe LIVOTI
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Wendy Loder
Garrett Lofgren
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Karl Lohninger
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Levon Lokmanian
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Vivian Love-Cureton
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Packy Lundholm
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Lance Lyons
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MARY KAY MAAS
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Matt MacDermaid
dennis mccain
Matt McCalister
Carol McCann
Loz-Ann McCarthy
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Andrew McCloughan 111
tramaine mcconnell williams
John McCrea
Barbara McCubbin
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Trina McDaniel
Karen McDaniels
Mike McDevitt
Rona McDonald
simeon McDonald
Maureen McDonald
Frank Mcdonough
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Autumn McEntire
Michael McEvoy
Aerick McFadden
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Miles McKenzie
Linda Mckenzie
sean mckeown
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Cody Navarro
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Okeem Palmer
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Ada Palmer
Patricia Palermo Alvarez
Ezechiel Palmieri
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Fidel Paniagua
Rique Pantoja
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Krisanthis Pappas
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Kelly Pardekooper
Danielle Parente
Peg Parham
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Anthony Parker
Bonnie Parker
Neil Parker
Stephan Parker
Bradford Parks
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Hannah Parrott
Carlyn Paschall
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tanvi patel
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Rita Pulvirenti
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David  Spradley
Bobby  Springsteen
Lem  Springsteen
Nicholas  Sproul
Laurore  St Juste III
Jennifer  St. Clair
Nancy  stafford
Reggie  Stafford
Darrin  Stafford
Reginald  Staggers
David  Stal
Joshua  Stallcop
George  Stalling
Robert and Hannah  Stallman
marcus  stallworth
Jason  Stallworth
Michael  Standal
Bob/Robert  Stander
Anine  Stang
Jennifer  Stasack
R  Statkus
Ronal  Steele
David  Steele
Pj  Steelman
Tiffany  Steffens
Erik  Steigen
Michael  Steimel
Billy  Steinberg
Greg  Steinke
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Neal  Stephens
Kerry  Stephens
Louis  Stephens
Rodney  Stepp
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James  Stevens
Robert  Stevens
Terry  Stevenson
sid  stevenson
Sherrona  Steward
Don  Stewart
Dee  Stewart
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Bobby Stewart
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Michele Stork
Patricia Lee Stotter
Jeff Stottlar
Thomas Stottlar
James Stout
Derrick Stout
Chanty Stovall
Curtis Stover
Jeremy Stover
Mark Stowe
Orlin Stoyanov
Suzanne Strickland
Joseph Strickland
Derek Stringer
Edgar M. Struble
Cynthia Stuart
McKenzie Stubbert
Thomas Stubbs
Matthew Stull
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Scott Sturgis
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Robert Summers
Tyler Summers
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Cheyenne Surratt
Lucy Sustar
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Kailey Swanson
KERN SWASEY
Luke Sweeney
Michael Sweet
Brad Sweet
Ann Sweeten
Stanley Swiniarski
James Vellutato
Charles Venable
James Verderame
J. Adrian Verkouteren
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Rayvaughn Vernon
Rayvaughn Vernon
Robert Viccica
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Valerie Vigoda
Carlos Villalobos Jr
Walter Vines
CARL VIPPERMAN
Orlando Vitto
Marcelo Viva
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Lauren Vogel
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Wilton Vought
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Terry VunCannon
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Drew Wagner
Robert Wait
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Vuyani Wakaba
Rory Walck
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J Wallace
Chris Wallin
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Betsy Walter
Robert Walters
Steven Waltner
John Wangler
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Charles Ward
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Kirk Whalum
Kelly Wheeler
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LaMarcus White
Oliver White
Simone White
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Royce White
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Benjamin Whittier
Ryan Whittier
Matthew Wibby
Luke Wiething
danny wilde
David Wilder
delvin wiley
George Wilkins
Charles Williams
Dwayne Williams
Sprague Williams
Mark Williams
Travis Williams
Leslie Williams
darrell williams
Daniel Williams
Meredith Williams
Mark Williams
Paul Williams
aaron williams
Josh Williams
Karl Williams (aka Karl Thaler)
Mike L Williamson
Katie Williamson
Jake Williamson
Tramel Willis
P. Andrew Willis
John Wilson
SUNNIE WILSON
Sam Wilson
Michael Wilson
Matthew Wilson
Anna Wilson
Kenneth Wilson
Daniel Wilson
Teri Wilson
JoAnn Wilson
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Tully Winfield
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Alice Woolford
Bashful World
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Rick Worth
kristen woutersz
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David Wright
Clarice Wright
Dennis Wright
curtis wright
Amy Wurtz
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Andrew Wysong
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jenny yates
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jeffrey young
Alessandra Young
Clive Young
kenny young
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Maurice Young
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Karl Ziemke
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Paula Zimmerman
Kevin Zimmernann
Vladimir Zinkovsky
Roy Ziv
Amos Zollo
Jeff Zona
Andy Zuckerman
Zupe Zupe
Chief, Litigation III Section  
Antitrust Division  
U.S. Department of Justice  
450 5th Street NW, Suite 4000  
Washington, DC 20001  

Re: Justice Department Review of the ASCAP and BMI Consent Decrees  

To the Chief of the Litigation III Section: 

Each of us is a music publisher and a member of ASCAP, an association that we are proud to be a part of and that we greatly value.* 

We write today in response to the Justice Department’s request for public comments on the issue of whether ASCAP and BMI’s consent decrees should require the PROs to license on a 100% basis, as opposed to fractionally licensing jointly-owned songs, which has been the historical industry practice. It’s critical that our voices are heard, because a shift to 100% licensing would negatively impact our creative freedom, our ability to choose which PRO licenses our music and, ultimately, our livelihood as songwriters. 

Songwriters are the ultimate small business owners. Many of us have families that depend on the income we receive from ASCAP. We have carefully chosen ASCAP as our PRO for multiple reasons: the trusted relationships we’ve developed there; the opportunities ASCAP provides for our music to be heard; the various training and networking opportunities ASCAP provides; and ultimately, the way ASCAP values our music and fights for writers to get fees that reflect the fair value of our work. 

Like most modern songwriters, we often choose to collaborate with other writers. Just recently, every song in the Top 10 on Billboard’s Pop, Country, Christian, and R&B/Hip-Hop charts was the result of collaboration. If the practice of 100% licensing is mandated by the Justice Department, our co-written works could be licensed – and we could be paid – by a PRO that represents our co-writers’ interest in our songs. The licensing fee the other PRO charges might be lower than the one ASCAP has negotiated or fought for in rate court, and despite our chosen affiliation, we would have to accept the lower fee. Because ASCAP values music differently than other PROs, we also wouldn’t be able to keep the benefits of ASCAP’s specific valuation system. 

As a result, having our work licensed by a different organization than the one each of us has chosen could dramatically affect our income. It could delay and potentially lower our royalty payments, which would now have to flow through two PROs. Somehow we would each have to monitor what we are being paid by a PRO we have no relationship with, figure out whether they have missed any of our performances, understand how and when they will pay us, determine whether we are getting our fair shares of bonuses under the other PRO’s distribution system, and so on. For these reasons, it might no longer be financially viable for any of us to collaborate with a writer outside of ASCAP. 

It also might not be creatively viable either. Successful songwriting means being able to work with songwriters of our choosing, regardless of their PRO affiliation. If the 100% licensing model were imposed on the PROs, in order to keep our work entirely within ASCAP, our PRO of choice, we would have to collaborate only with fellow ASCAP writers. All of a sudden, our individual and careful choice of collaborator would not be driven by artistic chemistry or compatibility, but by rules imposed by the government. The 100% licensing model allows the government to interfere with the creative process and effectively dictate our collaborators and our licensing representatives. 

As we understand it, music users from radio to digital music services to local television have all traditionally paid the PROs according to their respective shares of the music. Similarly, ASCAP has only ever paid us for our shares of co-written songs. What the Justice Department is contemplating is in stark contrast with how the PROs have been conducting business for decades and would wreak havoc in the songwriting world. 

We urge you to carefully consider your decision and take seriously the impact it will have not only on all songwriters across our nation, but also on our creative contributions to American culture and music lovers around the world. Without the freedom to collaborate and choose representation, the profession of songwriting is in jeopardy, as is the music that touches all of our lives. 

Sincerely, 

* Many of us are also songwriters.
Troy Castellano
Jaime Castillo
Leopoldo Castro
otto cate
Jackie Christopher
Philip Cialdella
Kenneth Clark
Vic Clay
Barry Coburn
ronald cohen
Jon Cohen
Charles Coleman
Wendie Colter
Shelby Comstock
Jay Condiotti
John Costello
Anna Cote
Laura Creamer
Bryan Cunningham
Gerald D'Imperio
JD Dallam
Mike Daly
Green Daniel
Cyril Daresbourg
Chris Darrow
Zoila Darton
chris davies
Garrison Davis
Joe Davis
Xarick Davis
Terry Davis
Dwayne Dayal
Michael de Gaetano
Wayne De La Cruz
Joseph DeBeasi
Katherine Del Rosso
ANDRE DELGADO
John Denicola
Noah Dewey
Dana DiAnda
Nick DiFalco
Katherine Dines
Denis Dinsmore
Patrick Dopson
Earl Douglas
Darren Drew
Marc Driskill
Joel Easton
Kenneth Eberhard
Cat Ellington
Chris Erin
Will Ervin
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Al Evers
Debra Farris
Miles Feinberg
Richard Feldman
Lawrence Feldner
Michael Ferenci
stephen finfer
Cathy Fink
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DeNiro Forte
Benjamin Foster
Justin Franks
John Freeman
Jeff Freundlich
Jody Friedman
Charles Gaiennie
Erik Gamans
Nomi Gardiner
Olivia Garvin
Michael Garza
Paul Gelsomine
Gina Gentilozzi
Ned Gershenson
Serban Ghenea
erick gilbertson
Matthew Gilder
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Henry Goldring
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Jimmie Gray
Kent Gray
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james henderson
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Dianna Maher
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Rachel Maloney
Kipyn Martin
Thomas Martin
cry baby martinez
Dennis Matkosy
kurt matlin
James May
Andre Mayeux
trama mcconnell williams
Travis McFetridge
Miles McKenzie
Patrick McManus
Kevin McNaly
Jennifer McNutt
Jeff McSpadden
Rob Meany
Scott Meath
RON MENDELSOHN
Mary Jo Mennella
David Metzner
adrian michna
Manuel Miles
Daryle Minor
dennis morgan
Kenny Morón
GILLIAN MORRIS
Vern Morrisey
mpsongs mpsongs
Michael Mucklow
Sherri Mullen
Luvy Murray
Sean Murray
Batuta Music
Yaqui Spirit Music
Rosebriar Music
MARCUS VINCET MUSIC
Cambria Arts Music
Badazz Music Company
Cherubian Music Inc.
Hit Switch Music Publishing
Noa Noa Music, Inc.
Snappametary Muzik
Ann Myra
Angelo Natalie
e Nelson
AUDIO NETWORK
Julie Nevel
Claire Nordstrom
Abby NOorth
Cristina Novo
Bob Seger
Coreen Selmon
Rick Shelton
Ryan Shore
Sally Sidman
Dan Siegel
Bonnie Silver
Neil Silverman
Pia Sjöberg
Donald Skaggs
Tonya Skinner
Jay Skinner
Jonathan Sloate
Michael Smith
Steven Sodders
Sand Songs
Bob Squance
Marc Staggers
Joshua Stallcop
Scott Stallone
Michael Standal
Edh Stanley
Michael Steimel
Sherrona Steward
Thomas Stokes
Suzanne Strickland
Joseph Strickland
Edgar M. Struble
Richard Stumpf
Jordan Suecof
William Sullivan
Stanley Swiniarski
Robert Szajner
John Szuch
Robyn Taylor-Drake
Mark Thomas
Karen Thomas (Komposer MD)
Gregg Thompson
Toucan Tunes
Raymond Turner
Meredythe Dee Ulevitch-Winter
Carlos Villalobos Jr
Luke Walker
Betsy Walter
John Ware
Mariea Watkins
Allen Webb
Paul Weimar
William Weisbach
LaMarcus White
Benjamin Whittier
David Wilder
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