

From: beth [mailto:b [Redacted]]
Sent: Friday, November 20, 2015 3:01 PM
To: ATR-LT3-ASCAP-BMI-Decree-Review; r [Redacted]
Subject: music licensing

I am providing feedback on my experience with ASCAP and BMI as a micro-winery owner.

We play Sirius radio at the winery and pay Sirius for the commercial licensing. We had live music about 13 times a year. Our winery is in retail space in a strip center. The tasting room holds about 32 seats, some of which had to be removed to make room for the solo performer.

ASCAP contacted us and said we had to have a license for the live music. They provided a formula for me to fill out. Based on that formula, we should have had to pay \$120 per year for the privilege of having the live music, on top of paying the performer \$100 or more per night. That was a grand total of about \$1420/year. We did not make much money on music nights, but still we would have paid that. However, ASCAP informed me that they had a minimum payment of \$350, so I was to disregard the formula and pay the minimum. I did that. Before we had to renew for a third year, we just stopped having any live music.

During that time, BMI started harassing us and using strong-arm tactics. BMI said we also had to pay them \$350/year (the same minimum, even though they, too, had a formula that worked out for us to pay \$120/year). BMI called about twice a week for several months and we got weekly letters in the mail. Quite frankly, they probably spent more than \$350 harassing us. It got so bad that I considered getting a restraining order. This harassment continued for a few months after we stopped having any live music at the winery.

This year I received a "special offer just for wineries" from ASCAP. They now offer a flat fee, regardless of size, of just \$679/year. Obviously, ASCAP is focused on the large wineries and does not have any problem dismissing, and in effect discriminating against, small wineries.

The monopoly ASCAP and BMI have for fixing high rates and harassing small business owners is unconscionable. Not only does it take unfair advantage of the small wineries, it also makes it cost prohibitive to have live music. The musicians also are not able to perform.

ASCAP and BMI targeted us, but we know of several other venues that are not paying and ASCAP and BMI have not even contacted. Others are not paying, because they have disregarded any communication from ASCAP and BMI.

Yes, I am bitter over this. I think artists and small businesses should bring a class action suit against both ASCAP and BMI for favoring the large venues and the established performers, while making it nearly impossible financially for the smaller venues and new, struggling performers to compete.

Please consider requiring ASCAP and BMI to go back to the formula (and not set a minimum) and allow smaller venues to enjoy the same rights and privileges afforded to larger businesses. I would have no problem paying ASCAP \$120/year and paying BMI \$120/year, but not \$350 or the new amount of \$679.

Thank you,
Beth Perrine Leopold
Perrine Winery