

# CHARLES FOX

November 19, 2015

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

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

To the Chief of the Litigation III Section:

I am writing to you most urgently to express my great concerns and fears of the Justice Department's consideration of changing the long established and fair and equitable practice of fractional licensing for composers and lyrics represented by the Performing Rights Societies of their choosing, in favor of a 100% licensing rule.

I am a songwriter/composer and have devoted my entire musical and professional life, (more than 50 years) to the art and craft of writing music. I have been most fortunate and happy in this, my life's endeavor. I have been the proud recipient of a Grammy Award for Best Song of the Year, ("Killing Me Softly With His Song"), an Emmy Award for Best TV Theme Song, ("Love American Style") Oscar Nominations for Best Song, "Ready To Take A Chance Again" from the film, FOUL PLAY, and "Richard's Window" from the film, THE OTHER SIDE OF THE MOUNTAIN, as well as theme songs for long running TV Series such as, "Happy Days", "The Love Boat", "Laverne and Shirley", "Wonder Woman", "Monday Night Football", to name a few. This proposed 100% licensing rule threatens the very foundation of my creativity and musical expression by practically demanding that I only work with the songwriters affiliated with my own performing rights society if I want to protect my potential income from my work.

I cannot fathom why anyone would consider this to be fair or in any way beneficial to the songwriter or the publisher of the material. It's not.

In 1962 I joined BMI in order for them to license my music when I began my professional composing career by writing theme music for The Tonight Show starring Johnny Carson. It has been a happy and successful relationship that I've enjoyed and it has had a very stabilizing effect on my career and income. I know BMI, I rely on BMI for future income, and from 50 years of experience with BMI, I feel confident that they have served me well and will continue to do so. An adoption of a 100% licensing decree would irreparably damage my ability and freedom to chose my co-writers. Why?

# CHARLES FOX

Many of my successful songs have been co-written with BMI songwriters. My principal co-writer over the years has been Norman Gimbel who has also been a long term member of BMI. Among other BMI writers, I have written songs with Bob Crewe who was the co-writer of the songs in the Broadway hit show, "Jersey Boys".

However, I've also enjoyed the freedom and ability, (and good fortune) to be able to chose to write songs with many other co-writers who are members of ASCAP. I may be in a pretty unique situation as I have counted among my co-writers as well as good friends, several of the great lyricists who happen to have been not only ASCAP songwriters, but as well, the Presidents of ASCAP over the past many years, namely, Hal David, Marilyn Bergman (and her co-writing husband, Alan Bergman), and including the current ASCAP president, Paul Williams, with whom I co-wrote, "The Love Boat", theme song. Other ASCAP writers whom I've collaborated with are Sammy Cahn and Carly Simon.

This review of the Consent Decree threatens my "right to chose" whom I work with if I don't want to jeopardize my financial stability. I don't know why anyone would think that's fair. The history of the performing rights societies' representing the fractional contribution of an affiliated songwriter of a song has long been fair and equitable. Please don't change that. The artists who create the music today need to have all the comfort and freedom to express their art without the Justice Department's forcing limitations on their creativity. The ability for each writer to chose his or her preferred co-writer without concern of jeopardizing their income is good and fair and correct and it's certainly good for the world that listens to and appreciates the work of those artists.

I have travelled the world in my professional career. I can tell you that it's American songs, mostly sung in English that the world listens to. We in America don't get to hear many songs from other countries sung in their native languages on the airwaves, but the world does get to hear our songs over the air in those countries. That's extremely unique in this world where we do import cars, TVs, and cell phones made in other countries. Songs are unique in that sense and help contribute to the balance of payments with other countries.

I respectfully urge you not to disrupt the creativity of the artists who write the songs that the world listens to and enjoys in order to make some accommodation to an inferior, unproven system that can change the lives and freedom to express one's creative thoughts in music and possibly disrupt the economic stability in those artist's lives.

Sincerely yours,  
Charles Fox  
([www.charlesfoxmusic.com](http://www.charlesfoxmusic.com))