

November 20,2015

To Whom it May Concern:

I wish to thank the Department of Justice for the opportunity to comment on the Consent Decree Review – ASCAP AND BMI 2015.

My wife and I own a small winery in Kentucky. We present live music, performed by local artists, at our twice a month events to enhance our customers experience at the event. We are licensed with BMI.

Please see my comments below on the questions that are proposed for this review.

Question 1) When our establishment purchased a BMI license it was assumed we could play their entire repertoire however, they (BMI) did not make their repertoire reasonably accessible. We receive no update notices detailing their repertoire.

Question 2) The license we purchased states the license grants the user access to over 7.5 million music works. The BMI database states "BMI makes no warranties or representations whatsoever with respect to its accuracy. Any use is solely at the risk of the user." If BMI cannot guarantee their database who can? If the database were housed in the copyright office it would eliminate this issue.

Question 3) As a winery with a BMI license we instruct our performers to perform only music from BMI but currently ASCAP has been badgering us and threatening legal action if we don't sign up for ASCAP license. They call and threaten almost daily. There is also no opportunity for price comparison or price breaks for shopping any of the Pros.

Question 4) No. Requiring the purchase of license for joint ownership would further the anti-competitive behavior of BMI and ASCAP. It would eliminate buyer's choice in the market place and by requiring multiple licenses for a single musical work it would be cost prohibitive to have music venues.

Question 5) Offering licensing that did not allow for partially owned works would increase the already difficult process of compiling with a purchased music license. Further, as the current repertoires are not reliable sources there would be no assurance of transparency regarding who owns what song.

Question 6) ASCAP and BMI should not be allowed to engage in joint pricing. The purpose of the consent decrees is to encourage competition among the music PROS. From the perspective of a licensee's competition is important because it serves as a "check" against the consolidated market power that both ASCAP and BMI have

amassed as a result of their aggregation of musical competition licensing rights. By requiring ASCAP and BMI to operate independent of one another a winery would be empowered to shop around for the best rates. This, in theory would create competition in the marketplace by encouraging both PROS to establish prices that are fair and reasonable.

Thank you for this opportunity to express my opinion on this subject.

Sincerely,

Dennis Walter
StoneBrook Winery, LLC