

November 11, 2015

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 BMI and ASCAP Consent Decrees

To the Chief of the Litigation III Section:

My name is Michael James Ryan Busbee p/k/a Busbee and I am a songwriter/producer artist living in Los Angeles, CA. You may know some recent songs that I have written and produced including "Try" by P!nk; "Dark Side" by Kelly Clarkson; "Storm Warning" by Hunter Hayes and "Summer Nights" by Rascal Flatts, just to name a few. I have been an affiliate of BMI since 2009 and I truly value the service and support BMI has provided me throughout my career. BMI has been invaluable to me in the pursuit and growth of my creative career.

I write today in response to the Justice Department's request for public comments on the issue of whether BMI and ASCAP's consent decrees mandate music licensing on a 100% basis, rather than the long-established industry practice of fractionally licensing jointly-owned songs. It's vital that my voice is heard, because if 100% licensing were required it would severely impact my creative freedom, my ability to choose which PRO licenses my music, and ultimately, my livelihood as a songwriter. Beyond my career, these ramifications would profoundly affect songwriters across our nation.

My profession is writing songs, making me America's smallest small business. Being a songwriter is both my chosen career and my passion. But it hasn't always been easy. My journey has been long and challenging. As a songwriter, I exist from hit to hit without any guarantee or promise that success will repeat and sustain. Deciding on a PRO is one of the most important decisions a songwriter can make and I chose BMI after very careful consideration of all the factors. They became one of my business partners and I am loyal to BMI because of the trusted relationships I have built there. Of equal importance is the fact that I know that they value my music and fight for all writers to get fees that reflect the fair value of our creative work. This is absolutely critical to my business and the business of songwriters everywhere.

Like most music creators today, I choose to collaborate with other writers. In fact, all of my songs that have become Top 10 hits and career defining for artists are the result of co-writes. What a 100% licensing model could mean for me is lower royalty payments if I collaborate with a songwriter represented by a PRO other than BMI. My co-written works could be licensed – and I could be paid – by a PRO that represents my

co-writers' share in my songs. The licensing fee the other PRO charges might be lower than the one BMI has negotiated or fought for in rate court, and despite my chosen affiliation, I would have to accept the lower fee. My royalties could also be delayed since they would have to flow through two PROs.

As a result, rather than choosing the best artistic fit in a writing partner, I would be restricted to writing solely with fellow BMI writers to keep my royalties flowing from BMI under the benefits of their specific valuation system. Otherwise, I would be forced to rely on a PRO with whom I have no relationship, to accurately track my performances and pay me, including my fair share of bonuses, on their timetable and under their distribution system. How could I be sure I would be paid fairly or at all? Where is the assurance of accountability under 100% licensing? It's true in fact that under 100% licensing, the core of my creative freedom and the primary source of revenue I depend on would be severely threatened.

Traditionally, music users from radio to streaming services to local television have all paid the PROs according to their respective shares of the music. Similarly, BMI has only ever paid me for my shares of co-written songs. 100% licensing would upend the well-established ways the PROs have been conducting business for decades, and consequently, have a drastic effect on the profession of songwriting.

If protection under copyright law was developed as an incentive for creativity, with its resulting works to be shared to benefit all of society, then requiring PROs to license music on a 100% basis goes against the very premise of copyright policy. I urge you to carefully consider your decision and consider the impact it will have not only on all songwriters across our nation, but on the very creation of music itself. American songwriting is part of the fabric of this great country and the songs we make continue to position America on the forefront of the global creative marketplace. Please don't endanger this vital part of all of our lives.

Sincerely,



Michael James Ryan Busbee