

Sent via email to: ASCAP-BMI-decree-review@usdoj.gov

November 18, 2015

To Whom It May Concern;

My name is Martin Sandberg p/k/a Max Martin, and I am a songwriter. For over 25 years, I have earned a living writing songs such as "Bad Blood" and "Shake It Off" for Taylor Swift, "Can't Feel My Face" for The Weeknd, "Problem", "Break Free" for Ariana Grande, and "Dark Horse" for Katy Perry. To date I have written or co-written 21 songs that have reached number 1 on Billboard Hot 100 in the United States. I have also been represented by ASCAP for most of my long career. In 2015 I was honored to be chosen as ASCAP'S Songwriter of the Year for the eight consecutive year. Although I have chosen to be represented by ASCAP in the United States, many of my songs were written in collaboration with songwriters affiliated with other PROs.

I recently became aware of the Justice Department's notice requesting public comments related to the ASCAP and BMI consent decrees and their licensing of jointly-owned songs. I applaud the Department of Justice's efforts to review and update those consent decrees, which I believe are much needed. But I am very concerned about the possibility that the Justice Department might require ASCAP and BMI to license every song in their respective repertoires on a 100% basis, regardless of the percentage of the song their affiliated writers or publishers own or control. This would be a dramatic change to how I understand licensing operates today and has operated for many years. And it would have a significant, negative impact on me and my family personally, changing how I create music as a songwriter, how my songs are licensed, how my royalties get paid and even whether they get fully paid.

I am represented by ASCAP in the United States through the Swedish PRO STIM of which I am a direct member. I have never understood either STIM or ASCAP license 100% of a song that I have co-written with someone else simply on the basis of my partial ownership of that song. In fact, under Swedish law, I am not authorized to license more than my own share of a particular song, and anyone wanting to use a song that I have co-written must get permission from each of my co-writers in addition to me. The rights that I have granted to STIM, which are in turn granted to ASCAP for performances in the United States, only cover my partial ownership of songs I have written. I have always been accounted to only for my ownership interest in the songs I have co-written. In addition, in all the years that I have been a member of STIM and have been represented by ASCAP, I have never received royalty payments or an accounting from a U.S. PRO other than ASCAP.

Like other songwriters, I rely on the fact that I know from whom, when, and under what payment rules I will receive performance royalty checks. And, I know that I will actually get paid what I am owed for my interest in a song. I don't believe there is any good reason to change this long-standing system and want to make sure the Justice Department appreciates that requiring ASCAP and BMI to license only on a 100% basis would negatively affect me as a songwriter in a number of ways.

First, requiring ASCAP and BMI to license on a 100% basis would undermine my ability to freely collaborate with partners of my choice. Collaboration with other songwriters is vitally important to the creation of a successful song and is an integral part of the creative process. Most of the major hits you hear today, including my own, were written through a collaborative process. These collaborations are by nature highly personal, depending on the creative chemistry between song writers. I do not choose collaborators based on what publisher or PRO they use and do not want to be forced to do so in order to maintain control over my creative work.

When I co-write a song, my co-writers and I understand that we live in a world that deals in partial ownership interests and that we share ownership of the works we write together. We may enter into agreements that lay out the ownership splits of the song and the rights that each co-writer has to exploit the song. Often, these agreements limit the ability of each co-writer to license more than his or her share of the copyrighted song or require approval from each co-writer prior to licensing the entire work. For example, I may write a song with a co-writer A who belongs to BMI and agree that we each own 50% of the song and that neither of us will license the other's 50% interest in the song without permission. Requiring ASCAP or BMI to license 100% of a song, even if it represents less than 100% of the song's writers, would undermine such an agreement. That is, A's membership in BMI would mean that BMI can license 100% of the song without getting separate permission for my portion of the song from ASCAP..

Requiring 100% licensing would thus put me in the untenable position of having to choose between good creative collaborations with song writers from a different PRO and the certainty and reliability of royalty payments from my own chosen PRO. This is true even where I may not have entered into an express written agreement with my co-writers on a song, but we have all relied on our respective PROs licensing and paying us based on our interests in a song.

Second, adopting a 100% licensing policy would affect my relationship with ASCAP and undermine the reasons for and benefits of my affiliation. My relationship with ASCAP is an important and personal one. I have a longstanding relationship with ASCAP, know the team there well, and work with them on a regular basis. Under my membership agreement with STIM and in accordance with Swedish law, I grant only my fractional share in works written by me to STIM, and consequently STIM has only granted ASCAP the right to license my fractional share of each of these works for performances in the United States. I have chosen to have ASCAP represent and license my songs in the United States because I believed that it best



represents me and my songs and because the benefits of this affiliation made it the right fit for me. The benefits of affiliating with ASCAP, BMI, or SESAC are very different, as each PRO has different royalty payment schedules, royalty distribution formulas, and other affiliation terms, and the actual royalty payments for different categories of uses can be significant.

Requiring BMI, with which I have no affiliation, to license a song without my permission simply because it was co-written by an BMI-affiliated writer would significantly interfere with my relationship with ASCAP and effectively leave me with no choice regarding the PRO which I choose to represent and license my songs in the United States. I am also worried that it could significantly impact my royalty payments and revenue, depending on the differences in how BMI and ASCAP calculate royalties for certain uses, how they calculate songwriter distributions, and the potentially different royalty rates agreed to by each PRO. There will have been no point to my carefully considered decision to affiliate with ASCAP.

Further, the lack of any existing structure for BMI to access information necessary to pay me and provide me with proper accounting and royalty statements means that I could experience significant delays in payment or never receive the full royalty payments to which I am entitled for the use of my songs. This possibility is a significant threat to someone like me who counts on regular royalty payments to support myself and my family. My ability to collaborate with songwriters from different PROs while knowing that royalties from the performance of our finished song will flow through my chosen PRO has never been threatened. However, if the Department decides to require the PROs to adopt a 100% licensing policy, I may be penalized for working with writers from a different PRO. Ultimately, the Department's proposal could dramatically change how I create music as a song writer, how I license my songs, and how, when (and perhaps whether) I receive my royalty payments.

I urge you to consider the impact of a 100% licensing requirement would have on songwriters like myself. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martin Sandberg', with a stylized, flowing script.

Martin Sandberg