



CHANGE IS NOW

DEFINING THE VALUE OF MUSIC IN THE DIGITAL SPACE

Broadcast Music, Inc.[®] (BMI[®]), the largest performing rights organization (PRO) in the United States, exists to serve music. As a trusted broker in the music industry, BMI (a) supports its 600,000 affiliated songwriters, composers and music publishers by ensuring they get paid when their songs are publicly performed, and (b) supports the businesses that perform their music by providing efficient, low-cost blanket licenses that grant access to the 8.5 million songs BMI represents. Essentially, BMI is a key driver in the ecosystem of art and commerce.

Locked Into an Outdated Decree

For the past 75 years, BMI has protected the livelihood of America’s songwriters and composers. Today, we seek to continue that mission in the digital space, but there is an obstacle in the way. The current consent decree under which BMI operates restricts us to antiquated business rules that prevent our songwriters and publishers from realizing free market rates. With each leap in technology and new music delivery platform, the rules contained in our consent decree are not responsive to the needs of the current marketplace.

Certain provisions of the existing BMI consent decree are nearly 50 years old, developed in a time before the Internet, satellite radio, cable and digital streaming services. As a result, the rules have not kept pace with the changes in technology, the media industry and the music business, nor even contemplated digital music – the way the majority of listeners consume music today.

BMI processes billions of digital streams per year, yet the individuals who write the songs earn 12 to 14 times less from digital music services than the artists who perform the songs. That inequity goes unchecked because of a current provision in the copyright law, which does not allow the rate courts to consider rates set for sound recordings. The problem is compounded, however, by the consent decree, which prevents affiliated writers, composers and publishers from pursuing free market license deals – and from determining the free market value of music – unless they withdraw from BMI altogether.

Solutions for Today’s Market

BMI seeks updates to its consent decree that would benefit songwriters, businesses and music fans alike, but would not eliminate the DOJ’s oversight of BMI’s business practices. These updates would:

- Allow flexibility for publishers to negotiate directly with businesses for certain digital licensing uses while continuing to use BMI for all other uses.
- Allow BMI to offer licenses for not just the performing right, but the multiple music rights modern businesses need in a single transaction
- Streamline rate-setting proceedings, making them cost-effective and market-responsive for all parties

Opposition From Digital Businesses

For years, certain businesses have asked for the opportunity to negotiate directly with music publishers. Given the chance to do so today via a decree modification, several technology giants are now opposing this change, seeking to maintain the status quo. Why the backtracking?

It is evident that the only reason these businesses oppose free-market negotiations is the fear that these negotiations will result in higher license fees that more closely reflect the actual value of the creative contributions of writers, composers and publishers – the very contributions upon which these businesses depend and profit from.

Ultimately, PROs are on the front lines facing certain large businesses that are determined to take advantage of artificial rates that are set by a court, not by the marketplace.

Changing the Future of Music Licensing

We are at a crossroads. It is time for PROs and policymakers to stand together to send the message to modern businesses that music is still as valued today as it has been for generations, and forge a new system that reflects this value in today’s digital landscape.

CHANGES ARE NEEDED TO PROTECT THE ART OF SONGWRITING ACROSS AMERICA AND BRING MUSIC LICENSING INTO THE 21ST CENTURY.

WRITE ON.