



June 13, 2018

The Honorable Makan Delrahim
Assistant Attorney General
U.S. Department of Justice Antitrust Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Assistant Attorney General Delrahim:

We are writing to express our strong support for the preservation of consent decrees governing the American Society of Composers, Authors and Publishers (ASCAP) and Broadcast Music, Inc. (BMI). Music licensing and copyright laws governing the provision of such licenses is a concern for many owners and operators of apartments across the country who play music in their communities.

For more than 20 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) have partnered on behalf of America's apartment industry. Drawing on the knowledge and policy expertise of staff in Washington, D.C., as well as the advocacy power of more than 160 NAA state and local affiliated associations, NAA and NMHC provide a single voice for developers, owners and operators of multifamily rental housing. One-third of all Americans rent their housing, and 39 million of them live in an apartment home.

Like many American businesses that are consumer-facing and end-users of music, apartment communities traditionally play musical works in common areas such as reception/lobby spaces, leasing offices or elevators. It is also common for music to be played around pool facilities, in dining areas or along walking paths. Additionally, in some apartment communities, access to music may also be provided in onsite fitness centers and clubhouses or similar social rooms or lounge spaces. In accordance with the law regarding public performance of copyrighted musical works, owners and operators obtain licenses from Performing Rights Organizations (PROS), including ASCAP, BMI and others to play this music.

The consent decrees governing the activities of ASCAP and BMI are critical to the apartment rental industry for the same reason they are critical to other communities of end-users. They help to ensure competitive markets for musical works, facilitate delivery of licenses in a predictable manner and provide for fair treatment of end-users in the application of licensing fees. Removing the consent decrees will create an unpredictable environment that fails to provide businesses the assurance that licensees are being treated equally or fairly. Ultimately, many apartment owners and operators will be incentivized to stop playing music altogether to avoid these complications and potential exposure to infringement claims.

NAA/NMHC support music licensing and copyright reforms that aim to improve efficiency, transparency and reduce burdens for apartment communities caused by a duplicative

licensing administration system. Removal of the consent decrees on ASCAP and BMI raises significant concerns for our members and the apartment rental industry broadly. We look forward to working with regulators and lawmakers on how best to improve the current system to the benefit of licensors and licensees alike. Thank you for considering our views.

Sincerely,



Cindy Chetti
Senior Vice President, Government Affairs
National Multifamily Housing Council



Gregory S. Brown
Senior Vice President, Government Affairs
National Apartment Association