U.S. Department of Justice

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AT
(202) 616-2771
TDD (202) 514-1888

JUSTICE DEPARTMENT APPROVES PROPOSAL TO ALLOW MUSICAL RIGHTS SOCIETIES TO DISCUSS PENDING LEGISLATION IN CONGRESS

WASHINGTON, D.C. -- Organizations in the music industry that license the use of music won the right today to work in harmony to analyze and lobby on legislation pending in Congress.

The Justice Department's Antitrust Division said that the American Society of Composers, Authors, and Publishers (ASCAP); Broadcast Music Inc. (BMI); and SESAC Inc. (SESAC) could get together to voice their views on legislative proposals dealing with music licensing.

The groups' jointly requested a statement of the Department's enforcement intentions if proposed discussions concerning the Fairness in Musical Licensing Act of 1995 were held.

The purpose of the discussions is to explore, in response to a congressional request, areas of agreement and disagreement surrounding the legislation.

The Department said that it would not challenge the musical rights societies' proposal since the antitrust laws generally do not prescribe joint activities among economic rivals for the purpose of petitioning the government for legislative action. The Department noted that while there are exceptions to this

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general rule, none appear to be involved in the joint discussions proposed by the parties.

The letter also noted that possible discussions would occur on industry issues generally, and that ASCAP, BMI, and SESAC might reach agreements that would obviate the need for legislation.

The Department said that to the extent that joint discussions avoid competitively sensitive areas and any agreements reached have no anticompetitive effect or a minimal anticompetitive effect and are outweighed by economic efficiencies, the antitrust laws likely would not be violated.

The Department's position was stated in a letter from Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division to ASCAP, BMI, and SESAC.

Under the Department's Business Review Procedure, a person or organization may submit a proposed course of action to the Antitrust Division and receive a statement as to whether the Division would challenge that action under the federal antitrust laws.

A file containing the business review request and the Department's response will be made available to the public immediately and may be examined in the Legal Procedure Unit, Antitrust Division, Room 3233, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, any documents supporting the business review will be added to the file.

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