



April 11, 2025

Suzanne V. Wilson
General Counsel and Associate Register of Copyrights
Office of the Register of Copyright
Library of Congress, 4th Floor
101 Independence Avenue SE
Washington, DC 20559

RE: Comments in response to Notice of Inquiry regarding “Issues Related to Performing Rights Organizations” (Docket No. 2025-1)

Dear Ms. Wilson,

Warner Chappell Music (WCM), the global music publishing division of Warner Music Group Corp. (Nasdaq: WMG), is home to a wide array of legendary songwriters and a rich catalog of contemporary hits and influential standards. WCM provides deep expertise across a range of creative services and the most innovative opportunities for songwriters and publishers. WCM and its affiliates currently publish and administer music from Anderson .Paak, Bruno Mars, Burt Bacharach, Cardi B, Chris Stapleton, Cole Porter, Dan + Shay, David Bowie, Gamble and Huff, George Gershwin, Grateful Dead, Justin Tranter, Kacey Musgraves, Katy Perry, Kool & the Gang, Lizzo, Madonna, Quincy Jones, RAYE, Saweetie, Talking Heads, Tones and I, and Zach Bryan, among many others.

As WCM has commercial relationships with ASCAP, BMI, SESAC and GMR, the four largest U.S. performing rights organizations (PROs) whose membership also includes many WCM songwriters, we welcome the opportunity to provide comments to the U.S. Copyright Office (USCO) in response to the Notice of Inquiry regarding “Issues Related to Performing Rights Organizations” published in the *Federal Register* on February 10, 2025 (NOI). As an active member of the National Music Publishers’ Association (NMPA), WCM fully endorses the NMPA’s comments submitted today in response to the NOI. Therefore, our comments below are intended to provide additional context as the USCO considers matters related to the operation of PROs in the U.S.; specifically, selective withdrawal of digital rights.

In January 2021, the Antitrust Division of the U.S. Department of Justice (DOJ) concluded a two-year investigation of the music licensing marketplace, including a review of the 1941 consent decrees that govern the licensing practices of ASCAP and BMI, which together we understand to represent approximately 90% of the U.S. public performance licensing market. Although it ultimately decided that no changes were needed at the time, as part of that review, the DOJ examined the issue of selective withdrawal of digital rights, which would allow a songwriter or publisher to limit ASCAP’s or BMI’s ability to grant licenses for their musical works to digital music services.

The consent decrees, drafted decades before the Internet was invented, do not support the interests of songwriters and publishers in a modern digital environment. There is no market failure that justifies continued government intervention in what should be private commercial relationships. Most Americans now get their music through digital music services operated by Spotify, Alphabet/Google, Amazon and Apple. These companies have unprecedented market power and the resources to negotiate and execute direct licenses with songwriters and publishers in the same manner as they currently do with recording artists and record labels. Publishers already negotiate and contract directly with all of the above plus many other companies for non-performance aspects of musical works, including audiovisual reproduction rights and lyrics display rights, in the U.S. and elsewhere. In a digital world, public performance rights for musical works should be no different. Songwriters and publishers should be free to choose when to avail themselves of collective licensing (for example, for the thousands of radio broadcasters, live music venues, restaurants, bars, and retail establishments in the U.S.) and when it suits them to license directly (such as to digital services with whom they routinely contract for other rights), rather than being locked into an “all-in or all-out” regime.

Moreover, blanket licenses granted under consent decrees undervalue musical compositions and permit use at below-market rates. They also introduce additional administrative delays and costs (typically in the 10-15% range or more). Negotiating direct deals with digital music services would lead to higher and faster payments for songwriters and publishers.

The U.S. is increasingly out of step with international practice in this regard. Currently, PROs that operate in the E.U. are required to allow rightsholders to withdraw specific rights from collective management, including digital rights, if they choose to do so, while remaining affiliated with the PROs for their unwithdrawn rights. Similar practices apply with respect to PROs operating in the U.K. and Japan, which provide choice and flexibility to rightsholders. As the Administration considers ways to ensure that American intellectual property is protected and remunerated appropriately both at home and abroad, selective withdrawal of digital rights offers a market-based solution that would increase value for U.S. rightsholders consistent with what is increasingly standard international practice.

Selective withdrawal of digital rights would require either that the DOJ modify the PRO consent decrees or an act of Congress. When it closed its investigation in January 2021, the DOJ recommended that the ASCAP and BMI consent decrees be reviewed every five years “to assess whether the decrees continue to achieve their objective to protect competition and whether modifications to the decrees are appropriate in light of changes in technology and the music industry.” As the five-year anniversary of that investigation approaches, we strongly encourage the DOJ to consider reexamining whether the consent decrees are still fit for purpose and support free-market competition in an evolving digital marketplace.

Further, in your discussions with Members of the House Judiciary Committee as part of this inquiry, we urge you to encourage Congress to support free-market principles and market-based

solutions that ensure songwriters and publishers are fully compensated for their creative efforts at market rates. Congress similarly may want to consider reviewing this matter.

Again, WCM welcomes the opportunity to respond to this Notice of Inquiry and hope that our comments are useful to the USCO as you examine the complicated and challenging issues regarding the operations of PROs in the United States. Please contact Mark Baker, Senior Vice President, Public Policy and Government Affairs at WMG (mark.baker@wmg.com) if we can provide any additional information or clarifications.

Sincerely,



Guy Moot
Co-Chair and Chief Executive Officer



Carianne Marshall
Co-Chair and Chief Operating Officer