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Congress of the United States
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COMMITTEE ON
JUDICIARY
VICE CHAIRMAN OF COURTS,
INTELLECTUAL PROPERTY AND THE
INTERNET
REGULATORY REFORM, COMMERCIAL
AND ANTITRUST LAW
COMMITTEE ON RULES
CO-CHAIRMAN OF THE
CREATIVE RIGHTS CAUCUS

February 4, 2016

The Honorable Loretta E. Lynch
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Lynch,

As you may know, the House Judiciary Committee has been engaged in an extensive effort to review the Copyright Act. As Vice-Chairman of the Subcommittee on Courts, Intellectual Property and the Internet, I have been integrally involved in this review and I have made it a priority to remain informed on the multitude of complex copyright issues before the Committee as we move toward potential legislation. Updating our music licensing laws is vitally important and terminating outdated consent decrees is a key part of such an update. For this reason, I wrote to the U.S. Copyright Office (USCO) earlier this year to request its views on a pertinent matter of music copyright law related to the licensing of the performance rights of jointly owned musical works by United States performing rights organizations (PROs).

In the enclosed January 29, 2016 letter responding to my request, the USCO addresses many aspects of this important music licensing issue. I am sharing the USCO's analysis with you since your Department's Antitrust Division is engaged in a review of the consent decrees governing two PROs, ASCAP and BMI, the outcome of which may directly impact this music copyright issue. While congressional action is not dependent on the Department's review, it certainly is relevant to our legislative discussions and plans for future action.

Specifically, I understand that the Antitrust Division recently requested public comment on the issue of whether the ASCAP and BMI consent decrees require the two PROs to engage in the licensing of one hundred percent (100%) of a jointly owned work, even where that PRO does not represent all joint owners of the musical work.

The USCO letter states clearly that it is the position of the Copyright Office that interpreting the two consent decrees in the manner proposed by the Antitrust Division would present "a host of legal and policy concerns" and "seemingly vitiate important principles of copyright law, interfere with creative collaborations among songwriters, negate private contracts, and impermissibly expand the reach of the consent decrees." USCO January 29, 2016 Letter at 3.

I hope that the Department will give the USCO's expertise on these copyright issues appropriate consideration and deference as the Antitrust Division continues its review. I also encourage the Department to conclude its review in a timely fashion. I request that your Department keep me updated on the progress of this review, particularly as it relates to any outcomes that may deviate significantly from the perspective shared by the USCO.

Sincerely,

A handwritten signature in cursive script that reads "Doug Collins".

Doug Collins
Member of Congress

Enclosure: January 29, 2016 Letter from the U.S. Copyright Office

Cc: Stuart Delery, Acting Associate Attorney General
Peter Kadzik, Assistant Attorney General for Legislative Affairs
Renata Hesse, Deputy Assistant Attorney General, Antitrust Division