

Government Bullies Pick On Defenseless Piano Teachers

In the 1890s, widespread concerns about the growing power and influence of large industrial concerns, then referred to as “trusts,” led to a barrage of legislation that now goes under the heading of anti-trust law. These statutes were intended as a check against monopolistic practices, and to protect consumers from rapacious behavior. At various times they were brought to bear against corporate titans such as General Motors, AT&T, IBM, and more recently, Microsoft and Google. To this rogue’s gallery of bad corporate actors, the Federal Trade Commission has added a new villain: that nice lady down the street who gives piano lessons in her living room. That’s right, the FTC, the agency charged with “protecting consumers against coercive monopolies,” has determined that independent music teachers are engaged in an anti-competitive conspiracy designed to pry above-market fees from unsuspecting consumers. And no, this isn’t a story we picked up from the *Onion*.

On March 28, the FTC informed the Music Teachers National Association that they were in violation of antitrust statutes. At issue was the association’s “Teacher Code of Ethics,” which offers seemingly innocuous advice like “guide and develop the musical potential of each student,” and “treat all students with dignity.” However, a vigilant FTC staffer detected sinister intent in the code’s exhortation to “respect the studios of other teachers,” and refrain from “actively soliciting” their students. This modest and non-binding suggestion, similar to those commonly advanced by lawyer and physician associations, was seen as a blatant attempt to restrict consumer choice and drive up lesson rates.

A sternly worded letter under the FTC banner, threatening penalties for failing to comply with the agency’s dictates, rattled Gary Ingle, CEO of the teachers’ group, who instantly had visions of ruinous fines and legal costs. When his legal counsel pointed to a clause in the FTC budget authorization, which clearly stated the agency had no jurisdiction over 501(c)3 non-profit educational groups like MTNA, he breathed a sigh of relief. However, the relief was short-lived. An FTC official blithely responded, “We think we have the jurisdiction, and if you disagree, challenge us in court.” Ingle concluded that a lengthy legal fight against the FTC, with its limitless resources, would quickly consume his \$1.7 million annual budget, so he took the prudent course and settled.

The preliminary terms of this settlement include omitting the offending language from its code of ethics; instructing the 500 affiliate groups across the country to do the same; reading an anti-trust disclaimer at every future MTNA event, typically gatherings of a few dozen local teachers; and prominently displaying on all websites and print communications that MTNA is dedicated to free and fair competition. The FTC made one concession: they didn’t force MTNA to hire a full-time anti-trust compliance officer. Instead, they allowed Ingle to should-

der the responsibility for filing the annual compliance reports that are required for the next 20 years.

Founded in 1876, the Music Teachers National Association is the country’s oldest educational association for music, and for the past 137 years has been remarkably consistent in its mission “to advance the value of music study and music making in society and to support the professionalism of music teachers.” With 22,000 members made up entirely of independent teachers, and a small staff in Cincinnati, most of its activities are carried out by independent volunteers working at 500 affiliates nationwide. Putting this fragmented group of music teachers in the same league as John D. Rockefeller and the Standard Oil Trust, or Bill Gates and Microsoft, is beyond ridiculous.

In a \$16 trillion dollar economy, what prompted the FTC to focus on the minuscule MTNA? A consumer complaint? An agency employee with a grudge against a former piano teacher? No one will ever know because FTC files are conveniently shielded from the Freedom of Information Act. And therein lies a problem with these regulatory agencies. The judicial system allows the accused to confront the accuser, and the resulting interchange is seen as critical to equitably resolving the dispute. Those accused by the FTC have no such privilege. They don’t have access to files and can’t cross-examine witnesses. That’s why most choose to settle rather than go to court against an opponent with limitless resources.

Since 2009, the FTC budget has increased from \$259 million to \$326 million. Although this is a paltry sum in Washington, where billions get lost in the rounding, we think it’s ripe for the trimming. A consumer watchdog that sees piano teachers as a threat either has too much time on its hands, or badly misplaced priorities, either of which warrants reduced funding.

Ambiguous laws that allow for multiple interpretations run the risk of turning enforcement agents into petty tyrants. And that seems to be the case at the FTC. Let’s hope that if this pitiful effort is publicized, they earn a well-deserved combination of ridicule and criticism.



Brian T. Majeski
Editor

brian@musictrades.com