

Before the
COPYRIGHT ROYALTY BOARD
in the Library of Congress
Washington, D.C. 20559

In re)
)
Notice of Proposed Rulemaking) RM 2008-7
)
NOTICE AND RECORDKEEPING FOR USE OF)
SOUND RECORDINGS UNDER STATUTORY)
LICENSE)
_____)

COMMENTS OF KWSC-FM

KWSC-FM hereby submits comments in the above captioned proceeding. KWSC-FM operates on 91.9 mhz and is licensed to Wayne State College, a public institution that is part of the Nebraska State College System. The station is part of the academic program in the department of Communication Arts. It is student operated as part of a practicum class and is NOT a “student activity.” KWSC-FM has an interest in this proceeding because it is a current webcaster, with the web stream 100% simulcasting the broadcast signal at <http://thecat.wsc.edu>.

KWSC-FM is submitting comments because the proposed changes concerning census reporting with the VERY short turnaround of 45 days, and the requirement to report actual performances in lieu of ATH is an undue burden for those stations like KWSC-FM that pay only the minimum fee. Such stations should be exempt from the proposed changes.

KWSC-FM’s Internet stream is encoded in the college’s Network Services office. The audio source is a conventional monaural FM radio that receives the station off-the-air. Unlike large commercial webcasters, we do not have an integrated system that could

correlate airplay of individual songs with moment-by-moment audience statistics. Our Network Services office can provide us with Aggregate Tuning Hours for a given period of time, but we have no way to collect Actual Total Performance. As a result, we would have no way to comply with the new rules. Collecting playlists for two weeks a quarter with ATH is difficult enough, but we are not aware of any practical, technical method of even estimating Actual Total Performance data for each song, much less generating accurate data.

In addition, when students program the radio station “live” they play music direct from CD, as opposed to audio files in a computer. The only feasible way to collect performance information is for the students to manually log each song they play, as well as the rest of the information required by the reports (album name, record company, etc). Year-round census reports would present an undue burden to students. Furthermore, the manual transcription and compilation of the play reports (even if we could acquire audience data) would take hundreds of staff hours a year. The monthly reports could easily take significantly longer than 45 days after the end of each month, given our environment of part time student management. We are aware of no commercially available software that could collate this “live” play of CDs, received off the air for insertion into the streaming feed with ATP audience statistics.

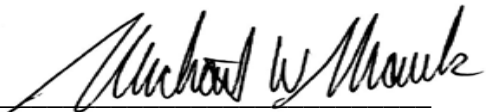
The move from quarterly reports to year-round (“census”) reports would be incredibly burdensome for small college radio stations. The proposals appear to be based on an incorrect understanding of the environmental factors affecting small web streamers, such as college radio stations, that makes the rules border on arbitrary and capricious, because compliance would be impossible. Their implementation would probably force widespread discontinuance of streaming by stations that have been making a good faith effort to comply with quarterly ATH reporting. The proposed rules would be impossible and would probably force the discontinuance of streaming, thus providing no webcast royalty payments to performers from KWSC-FM, and many other stations.

It should be noted that KWSC-FM has never exceeded, nor even been close to the ATH levels that would trigger fees above the \$500 level. In a recent typical two-week period, Aggregate listening time was 180,415 seconds (26 hours 6 minutes and 55 seconds). There were There were 179 unique sessions. The longest session was 16451 seconds (4 hours 34 minutes and 11 seconds, almost certainly one of our own staff members). The average session duration was 1007.91 seconds (0 hours 16 minutes and 47 seconds). Nine unique on-campus IP addresses and 63 unique of-campus IP addresses listened to the stream during this two-week period.

College radio stations that pay only the minimum fee should be exempt from the proposed changes from sample to census reporting and allow the use of ATH instead of per performance, and reporting quarterly, rather than monthly.

Respectfully submitted,

KWSC-FM

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