

**Before the  
COPYRIGHT ROYALTY BOARD  
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	)	
_____	)	

**JOINT COMMENTS OF  
UNIVERSITY OF CALIFORNIA  
NCE BROADCAST RADIO STATIONS AND  
ASSOCIATED COLLEGE BROADCASTERS WHO SIMULCAST**

University of California radio stations, in concert with associated college broadcasting stations in California<sup>1</sup> file these Comments in response to the proposals put forth by the Copyright Royalty Board’s *Notice of Proposed Rulemaking* published Fed Reg Vol. 74, No.66 (April 8, 2009)(“NPRM”).

**INTRODUCTION**

Our stations are a geographically diverse group of noncommercial, non-CPB funded radio stations licensed to various institutions of higher education throughout California. Financial resources are few; we operate with minimal budgets and with principal staffing comprised mainly of volunteers. Paid professional staff range from 0 to 3.75 full time equivalents. Besides our mission as a broadcast learning experience for students and community, we explore unique and diverse programming not available in the commercial world. As a result, we still play recorded music from analog media such as vinyl and cassettes as well as

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<sup>1</sup> The call signs, colleges and universities, and communities of license are listed at the end of these comments.

CDs from large libraries (some in excess of 70,000 albums) and do not utilize automated playlists. All stations stream their broadcasts over the Internet.

## **IMPACT OF THE PROPOSED CHANGES**

### **Census Reporting**

The CRJs asked, “What changes, if any, would be required to comply with the proposed census reporting requirement? What are the likely costs that would be required to move from the current reporting methodology to one that would be required under the proposal?”

The proposed move from quarterly reports to year-round census reports with accompanying performance data is unreasonable and not feasible for stations like ours. Recordkeeping of playlist data is entered into a computer manually as each piece is played from CD, vinyl LP and music brought in by the DJs. Some stations use an outside online service provider to aggregate manually entered playlist data (Radioactivity, Spintron) and some use homegrown systems to aggregate playlist data. Two separate data sources exist, one for playlist data and one for streaming data. Streaming data (where ATH is garnered) is separate from playlist data and must be connected to playlist data manually. There is no direct correlation between these two sources of data. To get ATP, not only would the systems somehow need to be connected, but start and stop times of each piece would need to be gathered. Even those stations who meet current reporting statutes can only approximate accurate start times for playlist data, end times are not recorded and non-music programming is not logged. ATP would not be accurate even if a “number” could be attached. Compliance with the proposed census reporting requirement would be impossible as there is no currently available technological solution at any price to do this.

### **Automation / Creative Choice**

Programming at each station is done by up to 90 different DJs a week. Each DJ is their own de facto program director and often do not decide in advance what to play. Stations program from vast libraries of music and do not use an automated playlist system.

Reports of use are created from manually entered playlist data and separate streaming server logs and compiled using current staff time. If we were required to go from 2 weeks per quarter to year round, it would require an additional part time staff person to compile the reports.

Creative choice is an important part of why we operate with live programming. As stations we are broadcast radio first and we are responsive to live audience input. Part of our mission is to provide unique and underexposed music to our audiences as well as to put music together in ways that cannot be anticipated before airtime. Automation is contrary to this goal. In addition we do not have the resources to digitize our extensive physical music libraries.

### **Small Entity Exemptions / Alternatives**

We urge the CRB to exempt educational stations from the proposed provisions, and allow these webcasters the use of ATH and sample reports on a quarterly basis for stations paying only the minimum fee.

### **CONCLUSION**

The proposed move to census reporting with accompanying performance data is unreasonable and not feasible for small educational broadcasters like ours. Compliance would be impossible. Going to automated playlists/automation changes the fundamental educational missions of our stations. The undersigned urge the CRB to adopt a proposal that recognizes the special nature of colleges and university stations like ours. We request that stations like ours be allowed to report two weeks out of every quarter and to continue the use of ATH.

Respectfully submitted,

Radio Station KALX  
University of California, Berkeley  
Berkeley, California

Radio Station KDVS  
University of California, Davis  
Davis, California

Radio Station KCSB  
University of California, Santa Barbara  
Santa Barbara, California

Radio Station KUCI  
University of California, Irvine  
Irvine, California

Radio Station KUCR  
University of California, Riverside  
Riverside, California

Radio Station KZSC  
University of California, Santa Cruz  
Santa Cruz, California

Radio Station KSPC  
Pomona College  
Claremont, California

Radio Station KFJC  
Foothill College  
Los Altos Hills, California

Dated: May 26, 2009