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

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

COMMENTS OF WRKE-LP SALEM VIRGINIA

WRKE-LP hereby submits comments in the above captioned proceeding. WRKE-LP

100.3 FM is a student staffed, non-commercial, non-profit, 100 watt Low Power FM

("LPFM") radio station, operating from a broadcast studio located on the campus of

Roanoke College in Salem, Virginia. WRKE-LP recently started a web simulcast of its

on-air programming at http://www.wrke.org due to demand from on-campus students

who don't own FM radios – yet have ready access to laptops and PCs, college alumni,

and parents of students who operate the station who wish to hear their children "on-air".

We are an interested party as the proposed changes to "Notice and Recordkeeping for

Use of Sound Recordings Under Statutory License" will adversely affect the way our

station operates.

WRKE-LP is currently paying the minimum fee required by SoundExchange, as our total

web streaming output is capped at 50 listeners due to bandwidth limitations. We feel that

the proposed changes concerning census reporting as well as the requirement to report

actual performances in lieu of Aggregate Tuning Hours ("ATH") is an undue burden for

us. It is the opinion of WRKE-LP staff that small stations paying only the minimum fee

should be exempted from the proposed changes, especially since stations like ours rely on

minimal staffing for operation and have little or no budget to work with.

Since WRKE-LP just commenced streaming recently, we are in the process of filing our first quarterly report of use, and have come across several areas of concern: 1) creating accurate usage data from station automation systems and human volunteers in a timely manner, and 2) accurate measurement of ATH from web streaming server logs.

While WRKE-LP's automation system log software (OMT iMediaTouch) can export fairly detailed ASCII text reports about which music is played and when it is played, this exported log data has to be manually manipulated several times before it is acceptable for the Excel spreadsheet format used for quarterly reporting to SoundExchange. Additionally, several students DJs like to play music from vinyl LPs, CDs, and MP3 players/iPods. Although on-air DJs are supposed to manually log this data, complete with time played, artist, title, etc. they sometimes fail to accurately record this information. These "paper logs" must also be manually merged with the data from the iMediaTouch automation system before we can create the final quarterly two-week usage report. This manual process is very tedious and time consuming for each two-week per quarter reporting period. Although there have been efforts to identify software and hardware to help us automate this task, we have so far been unable to identify any products that suit our needs for efficient quarterly SoundExchange reporting. We have contacted SoundExchange, OMT/iMediaTouch, and several other "traffic and billing" software companies to see if they have a complete solution, but there is no solution that we are aware of currently to help us automate this process.

If a commercial software package is created to allow stations to automate quarterly SoundExchange reporting, it would have to be free or very inexpensive as WRKE-LP operates on a very limited budget. Current quarterly use reporting is being done by a volunteer, who has expressed frustration about the entire process, saying it is quite tedious and time consuming to properly gather and format the requested data. Because the data is being compiled by volunteer staff we have serious doubts about the feasibility of the 45 day reporting requirement – this seems like a short timeline to properly gather and format the requested Reports of Use.

Because of the current troubles WRKE-LP is experiencing with even compiling quarterly reporting per the current requirements, we see no practical way for us to provide census reporting data to SoundExchange on a monthly basis. If monthly census data becomes a reporting requirement, WRKE-LP will have no choice but to terminate its broadcast simulcast stream.

While WRKE-LP staff can compile a general list of Aggregate Tuning Hours ("ATH") by accessing our streaming server logs, manually compiling the data, and coming up with how many hours people were listening to the stream, we have no practical way of determining actual performances with dates and times that listeners were connected to the stream from our server logs. WRKE-LP staff have been unable to identify effective reporting tools to easily access current ATH requirements, and Roanoke College IT staff say that it would be highly unlikely for our Windows 2003 web server to provide the data necessary for determining actual performances of music with dates and times and number of listeners.
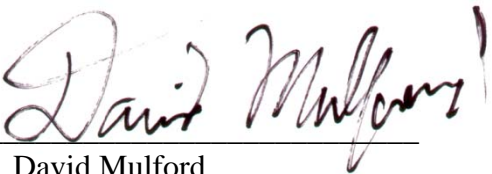
Because the volunteer staff at WRKE-LP is currently under tremendous pressure to meet current SoundExchange reporting requirements, we simply do not see a way for us to meet the even more stringent proposed reporting requirements. If the CRB decides to enforce the proposed changes we feel that it will be the end of on-line simulcasting for WRKE-LP and possibly hundreds of other small non-profit webcasters.

We as broadcasters acknowledge that musicians and publishers should be rewarded and properly compensated for their intellectual property and related works. WRKE-LP already pays a fair amount of money each year to ASCAP, BMI, and SESAC for this intended purpose – each without reporting requirements. Further, WRKE-LP feels the same rules should apply to our broadcast simulcasts if we pay our annual fee to SoundExchange. WRKE-LP feels that current CRB and SoundExchange rules make it difficult enough for small non-profit stations to webcast their programming.

In summary, it is the belief of WRKE-LP staff that in order for our radio station to stay in compliance with the rules, small stations paying only the minimum fee should be exempted from the proposed changes, especially since stations like ours rely on minimal staffing for operation and have little or no budget to work with.   We believe that if such an exemption is not made, our station will be negatively impacted and will have to cease our simulcast streaming.

Respectfully submitted,

WRKE-LP 100.3 FM, Salem, VA

By:_____

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