

Before the
COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, DC

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In the Matter of)	
)	
Notice and Recordkeeping for Use of)	
Sound Recordings Under Statutory)	Docket No. 14-CRB-0005 (RM)
License)	
Notice of proposed rulemaking)	
)	
)	

Comments of KWSC-FM

Pursuant to the above captioned Notice of Proposed Rulemaking ("Notice") which appeared in the Federal Register on May 2, 2014, KWSC-FM submits its comments. KWSC-FM is currently considered to be a Noncommercial Educational Webcaster ("NEW") as defined by 37 CFR §380.21. Licensed to a state college, the radio station is part of the Mass Communication electronic media curriculum with student participation on the staff of the station serving as one of the requirements for graduation.,

The designation as a NEW has been highly beneficial because the Reporting requirements under 37 CFR §380.23 allow KWSC-FM to submit Reports of Use through a proxy fee, which we have done since the proxy fee was approved. We would like to retain the NEW reporting status and request that the regulations which appear to sunset these recordkeeping provisions be removed so we can continue to report as a NEW even after December 31, 2015. The §380.23 regulations were adopted as precedent and should be allowed to remain in effect as the recordkeeping and reporting regulations because they serve us well, will allow us to continue to webcast, and have been previously approved and adopted as a reasonable.

We submit Reports of Use via an Excel spreadsheet (reports of use on a sample bases but no ATP or ATH because we pay the proxy fee), and hope that this will remain an option, updated as needed to conform to any and all proposed changes. We recommend that multiple formats be allowed, although KWSC-FM has no specific objection to the elimination of the requirement of a template in Quatro Pro. We understand that a template in Google spreadsheet would benefit many stations.

KWSC-FM feels that the requirement to submit a copy of the Notice of Use directly to SoundExchange is unnecessary and is likely to be overlooked. Many stations would benefit from the ability to file a form on-line although KWSC-FM must pay by check. An on-line filing could provide any and all collectives with simultaneous notice of the filing.

KWSC-FM is very relieved to see that the proposed regulations included the qualifier, “if feasible” with respect to reporting the ISRC. Much of our music is played “live” from CDs and ISRC look-up is not feasible.

KWSC-FM must also strongly object to the proposed new requirement to add the “The letters ‘NLR’ (for ‘no license required’)

if the Service has excluded the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because transmission of the sound recording does not require a license, or the letters ‘DL’ (for ‘direct license’)

if the Service has excluded the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because the Service has a license directly from the copyright owner of such sound recording.”

KWSC-FM objects because much of our program day is music played “live” from CDs and the student DJs would have no way of determining what is allowed to be excluded and what is not. Much of the music we play is not contained in any automation database. It would be far beyond our resources to attempt to create such a database from scratch.

KWSC-FM is uncomfortable with the provisions for a late fee for “non-compliant” reports of use, even if filed on a timely basis. There is no definition of non-compliance and because our reports are typically typed manually by college students as they play each song from CD, typographical issues are likely. There is no clear definition of the threshold level which would justify a late fee.

KWSC-FM must object to the proposed change of due date for ROUs submitted from the current 45 days after the close of the relevant reporting period to 30 days. Given the manual nature of music play and report compilation, 45 days is needed to check data for accuracy, format it, etc. The proposed regulations seem to assume a large staff, large budget, and a compiled master database of music, but KWSC-FM is a station operated entirely by students with one faculty advisor and a total operating budget under \$5,000 a year. We make a good faith effort to comply with all reporting provisions, but time and patience is necessary.

Conclusion

For the above reasons, KWSC-FM believes that the §380.23 provisions for NEWS should be extended indefinitely. Changes that significantly increase the burden of reporting could force us to discontinue streaming, as we did circa 2006, before the proxy fee was introduced.

Dated: June 23, 2014

Respectfully submitted,



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