

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 WBSU

Pursuant to the above captioned Notice of Proposed Rulemaking ("Notice") which appeared in the Federal Register on May 2, 2014, WBSU submits its comments.

The designation as a NEW has suited us well as the Reporting requirements under 37 CFR §380.23 provide WBSU to Reports of Use through a proxy fee. We would like to retain the ability to report as a NEW for as long as possible, 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 as the recordkeeping and reporting regulations as they serve us well, will allow us to continue to webcast and have been previously approved and adopted as a reasonable.

The Notice proposes numerous changes requested by SoundExchange. When it comes to issues related to NEW webcasters, WBSU believes that when a system is working at its best, it is best to leave it alone. That applies here. The rules currently in place have greatly benefited both SoundExchange and student-run educational

webcasters, but not without significant cost to budget-strapped student operations.

Changing the current structure poses the real risk of harming NEW stations like WBSU and thereby reducing the benefit to SoundExchange and the artists they are chartered to serve.

While WBSU has concerns about a number of the proposed changes, we are focusing our comments on several key items that have the potential to cause harm to NEW station operations.

The first critical area for WBSU concerns the proposed requirement of reporting the International Standard Recording Code (“ISRC”), to which we object. WBSU is encouraged to see that the proposed regulation included the qualifier “if feasible” with respect to reporting the ISRC because it is absolutely not feasible for WBSU to comply. If the regulations require WBSU to report the ISRC associated with every sound/song recording used by our station, it would necessitate both a massive recoding of our music library database of over 5,000 songs, as well manual research to find the ISRC information on music (CDs, vinyl, etc.) not contained within our music database. Such an undertaking is beyond the resources of a volunteer, student-run station.

WBSU also strongly objects to the proposed new requirement that Reports of Use include every sound recording aired and that, in addition, we must flag the recordings not subject to a royalty payment as “NLR” (no license required) or “DL” (directly licensed). As with the ISRC issue, WBSU would need to go through our entire music library and recode. WBSU simply does not have the resources necessary to perform this task, nor can students be expected to have sufficient knowledge of what constitutes a NLR or DL

recording to accurately code this information. It is unreasonable to expect a nonprofessional volunteer broadcaster to have, or gain, a working knowledge of these designation issues.

WBSU feels that the requirement to submit a copy the Notice of Use directly to SoundExchange is unnecessary and likely to be overlooked. This problem would be eliminated if WBSU could complete a form on-line and submit payment through a purchase order.

WBSU must also strongly object to the proposed new requirement to be required 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.”

WBSU objects because we staff with volunteer student DJs who do not know and would guess and/or have no way of knowing what is allowed to be excluded and what is not. To our knowledge no definitive list exists which would allow us to include this information in our automation and even if one did exist, we do not have the resources to update our database of over 5,000 recordings.

WBSU is uncomfortable with the provisions for a late fee for “non-compliant” reports of use, even if timely filed. What constitutes a non-compliant ROU? Is that one line of data with missing information or a typo? What is the threshold level of non-

compliance which would justify a late fee? Again, volunteer, inexperienced students could subject our operation to sanctions without clearer definition.

Ultimately, further costs associated with many of these issues, if changed, may result in WBSU ceasing the operation of its webcast—a service that is already a cost-center for our operation instead of a revenue generator. This result would hurt student broadcasters and new, upcoming music artists the legislation purports to help.

Conclusion

For the above reasons, WBSU believes that the §380.23 provisions for NEWS should be extended indefinitely as we may not exist if they go away.

Dated: June 10, 2014

Respectfully submitted,

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