

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 )  
License )  
Notice of proposed rulemaking )

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Docket No. 14-CRB-0005 (RM)

**WJCU Radio**

Pursuant to the above captioned Notice of Proposed Rulemaking ("Notice") which appeared in the Federal Register on May 2, 2014, WJCU radio submits its comments. WJCU Radio is currently considered a Noncommercial Educational Webcaster ("NEW") as defined by 37 CFR §380.21.

The designation as a NEW has suited WJCU Radio well, as the reporting requirements under 37 CFR §380.23 provide a practicable means for us to provide timely Reports of Use through payment of a proxy fee.

WJCU Radio 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 means to comply with our statutory obligations.

The Notice proposes numerous changes requested by Sound Exchange. WJCU Radio agrees with the proposed regulations which specify use of “UTF-8 *if feasible*” (emphasis added) as opposed to the outright elimination of the use of ASCII.

With respect to the elimination of the requirement of a template in Quatro Pro, WJCU Radio has no objection; however we respectfully request that this requirement be replaced with a template as Google spreadsheet. Also, the current Excel template should be updated to conform to any and all proposed changes.

WJCU Radio feels that the requirement to submit a copy of the Notice of Use directly to Sound Exchange is unnecessary and likely to be overlooked. This problem would be eliminated if WJCU Radio could complete a form on-line and submit payment with a valid credit card. A copy of the electronic submission could then automatically be forwarded to Sound Exchange.

WJCU Radio is relieved to see that the proposed regulations included the qualifier, “if feasible” with respect to reporting the ISRC because implementing that at WJCU radio would pose an extraordinary burden, given the fact that WJCU airs materials from an extensive and diverse variety of source media, including original analog 78 RPM & transcription discs, magnetic tape, and other analog sources lacking the ISRC metadata. Furthermore past experience has demonstrated that researching much of this data can be time-consuming and labor-intensive. Indeed, in some cases, the data simply are not available.

The proposed regulations include the following;

- (ix) In the case of a classical recording:
  - (A) The ensemble (e.g., orchestra or other group) identified on the commercial product packaging, if any;

- (B) The conductor identified on the commercial product packaging, if any;
- (C) The soloist(s) identified on the commercial product packaging, if any;
- (D) The composer of the relevant musical work;
- (E) The overall title of the relevant musical work (e.g., the name of a symphony); and
- (F) The title of the relevant movement or other constituent part of the musical work, if applicable;

WJCU Radio must object to these new requirements because of the human and technological resources needed to provide all of the specific data, and because such data are completely incompatible with WJCU's current music record-keeping technology.

WJCU Radio 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."

WJCU Radio objects to the required inclusion of NLR and DL designators because no existing database or list providing a reliable means for identifying such recordings appears to exist. Such entries would likely be based on speculative and incomplete information, and would be incompatible with existing database technology used by WJCU Radio.

WJCU Radio is uncomfortable with the provisions for a late fee for “non-compliant” reports of use, even if timely filed. Without explicit definitions of what constitutes a non-compliant ROU, it is difficult for WJCU Radio to project the potential negative fiscal impacts that could occur as a result of such a provision.

Finally, WJCU Radio 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 because shorter due date windows are more likely to result in errors, particularly since WJCU Radio would have to rely on some volunteer assistance to complete its ROU's, as would other NEWS.

As is the case with a number of NEWS operations, WJCU Radio relies almost exclusively on student and community volunteers for its day to day operation, and operates with very limited financial resources, deriving no revenue from the sale of advertising. Conversely, WJCU Radio and many other NEWS offer highly diverse programming, meaning that tens of thousands of unique sound recordings may be broadcast in a single year, in contrast to several hundred at a typical commercial music operation. This means that even seemingly minor changes in the requirements for ROU may have a significant negative impact on the operation of a NEWS.

### **Conclusion**

For the above reasons, WJCU Radio believes that the §380.23 provisions for NEWS should be extended indefinitely, as they provide a practicable and proven means for NEWS such as WJCU Radio to maintain compliance with their statutory obligation to rights holders, while maintaining meaningful service to diverse local and virtual communities.

WJCU Radio objects to a requirement for direct submission of ROU directly to Sound Exchange, and respectfully suggests establishment of an online payment site.

WJCU Radio objects to a requirement for inclusion of IRSC metadata in ROU, when such metadata is not readily available.

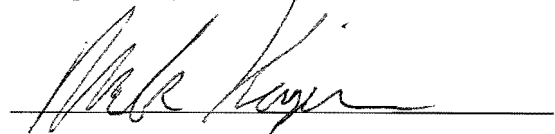
WJCU radio objects to a requirement for additional metadata to be included with classical music selections reported in ROU that include specification of conductors, soloists, etc.

WJCU Radio strongly objects to any requirement that NLR and /or DL designations be included in ROU.

WJCU Radio objects to shortening the due date for ROU from 45 days to 30 days.

Dated: May 21<sup>st</sup>, 2014

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Krieger", is written over a solid horizontal line.

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