

## **Guide to Submitting Comments in the webcasting recordkeeping proceeding NOI**

This document has been prepared to aid primarily student-staffed educational stations in submitting comments before the Copyright Royalty Board. In order to help you understand the process, we have outlined some important points below.

- The Copyright Royalty Judges (CRJs) proposed a change in the regulations concerning recordkeeping and reports of use that include requiring stations to submit monthly census reports, a substantial increase from the current requirement to provide reports covering two seven-day periods per calendar quarter.
- The CRJs proposed that the monthly reports be due within 45 days after the last day of each month.
- The CRJs misread their own rules to say that all stations must be reporting Actual Total Performances (“ATP”). ATP means that a station would report the total actual number of streaming connections for each and every song played.

The current rules DO NOT require stations that pay only the minimum annual fee to use ATP, rather the rules continue to allow such stations to use Aggregate Tuning Hours (“ATH”). ATH is a much simpler calculation that only reports the numbers of hours people listen to the webcast during the entire reporting period. For example one person listening for one hour would be an ATH of one. Ten people listening for 10 hours would be an ATH of 10.

The proposed rules would eliminate the use of ATH and require using ATP at educational stations.

CBI and many educational stations filed comments in opposition to the proposed rule changes due to the negative impact it would have on their operations. In response, the CRJs issued a Notice of Inquiry (“NOI”) containing a number of questions. This guide is meant to help stations file comments in response to the NOI.

It is important that stations submit comments in response to the NOI. Please pay careful attention to the format guide, the topics of importance and the deadline for submitting comments.

Once you have completed your comments, please feel free to send a copy to [copyright@askcbi.org](mailto:copyright@askcbi.org). In fact, we are requesting that you do this in order to show consistency in the responses from Educational Stations. If we are provided enough time we will review your comments and provide some feedback. In particular, we will be looking for problems that might hurt rather than help.

Comments are due no later than May 26, 2009. Your comments should be submitted to [crb@loc.gov](mailto:crb@loc.gov). Please use this address only to submit your formal comments. Informal email that simply contains complaints and non-constructive responses will not help in any way and will likely hurt efforts to stop the proposed changes. Please send a cc or bcc to [copyright@askcbi.org](mailto:copyright@askcbi.org).

CBI will be submitting comments in this proceeding.

Finally, there will be a reply comment window. The CBI web site (<http://www.askcbi.org>) will contain information concerning the comments and reply comments in this proceeding. Reply comments are due no later than June 8, 2009.

This guide is being provided as a service by CBI members, who are not lawyers, and is not to be construed as specific legal advice.

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

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

**Comments of WSBF-FM Clemson**

WSBF-FM hereby submits comments in the above captioned proceeding. WSBF-FM operates on 88.1 mhz and is licensed to Clemson University. The station is completely student run with a majority of work conducted by student and community volunteers. WSBF is a noncommercial educational station that is funded by Clemson University. WSBF is a current webcaster, with the webstream simulcasting the broadcast signal. The website and stream are available at [www.wsbf.net](http://www.wsbf.net).

These comments are being filed because WSBF is a small station that will be affected by the proposed rule changes in the following ways.

**Census Reporting**

WSBF can not currently report Actual Total Performances (ATP) due to the fact that our software does not have the capacity to collect or compile this information. The software that we run is called DRS 2006 which was purchased in February of 2009.

DRS 2006 has worked out great for the station in that it collects all of the metadata that is currently needed to compile our reports of use. To compile the reports of use WSBF uses DRS 2006 and that data is then placed in excel and manually formatted to the needs of Soundexchange. The time involved to collect and compile all of the metadata that is needed is overwhelming. One of the reasons it took me so long to understand what we were being asked to collect is the turnover and institutional knowledge loss that occurs each year in a college station. I alone spent a good three weeks or more trying to first educate myself on the process and what is involved and then communicate these needs to our computer engineer.

Besides the lack of commercially available software to meet the new requirements is the man power involved. To report every thirty days would require a full time position to be created so that one could assure reports would be accurate and timely. For a commercial station staffed by professionals the matter of manpower isn't nearly as big of an issue as for a student run radio station. For this point I would share some information about college dynamics.

WSBF is a completely student run volunteer radio station. Clemson is ranked 22<sup>nd</sup> in the nation as a public university. Students have so many tertiary responsibilities where as a commercial station has professionals that have less outside variables on a day to day basis. It would seem to me that it would be very difficult to find a way to staff this position and to entrust the life of the station to that individual. It is hard to say at this point how many hours a week this would consume and what tools this position would have to successfully complete their tasks.

Again dealing with students what might happen if the student in this position took on a heavy academic load and resigned in the middle of the semester. There are several instances where a student sometimes has to remove himself from certain obligations, organizations, or even the university itself. Right now the reports of use take up a good deal of time to compile but it is a job duty that a general manager or programs director can absorb and deal with the time consumption. Something that must be taken into consideration are the local goals and demands of every station that must be met and accomplished or stations would be stagnant or nonexistent.

### **Live Programming**

There are many reasons why live programming is necessary to our daily operations. WSBF is educational station and it is educational to the audience but is even more so to the DJ's and staff members involved. Our station is currently being used by communication majors for internship/shadowing hours that are necessary for their major. I can say that the professional development I have gathered from being general manager is priceless. Gary Parsons who founded XM radio got his start in radio here at WSBF.

WSBF offers musical programs, sports programs, news programs, and will start offering a talk show that focuses on business and economics. Certain things must take place live and I am a strong believer that almost everything needs to be live. We use an automation system but that is only when we don't have students in the station such as early morning hours and when school is not in session.

Radio programs that are musical in nature need to be live for several reasons including but not limited to: overall air quality, audience participation i.e. requests and comments or questions about music that is being currently played, spontaneity of each program that is produced. Another issue is copyright infringement, many if not all DJ's play music out of their own collection and if that music was copied to a station server or hard drive it would be illegal and unethical.

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

From WSBF's standpoint exemption should occur based on the current system of being under 159,000 ATH. ATH in my eyes is a direct measure of market capture and if an

entity has a fraction of the market capture of its counter parts why would it be in the same category as a station that is that has 200,000 listeners. College stations are typically very small, they play nonmainstream music, and are made of amateurs. A college stations goal isn't to be the biggest and generate the most money it is to provide programming and educational opportunities to its staff members and its audience.

The judges ask if they should consider exempting certain classes of webcasters from the proposed provisions. They offer, as examples, different possible exemption criteria including a "revenue-based cut-off," those that pay only the \$500 minimum fee and if so, should that exemption be limited to only noncommercial entities, or the number of employees.

### **CONCLUSION**

The rules that are in place currently allow stations to meet the requirements of reporting and still be able to operate in their traditional fashions. If rules were to be changed they should take into consideration the following items: a realistic timeline and system to allow a transition to occur, software needs to be commercially developed first so that the rules can be followed, seminars or training sessions should be held at least regionally to allow college broadcasters to understand what the changes mean and how they can successfully abide by them.

Respectfully submitted,

WSBF-FM Clemson

By: \_\_\_\_\_

Graham Fowler  
WSBF-FM Clemson  
General Manager  
315 Hendrix Center  
Clemson, SC 29634  
Wsbf.net  
[program@wsbf.net](mailto:program@wsbf.net)  
864-656-4009

May 24, 2009