

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

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

COMMENTS OF SCAD Radio

These comments are submitted on behalf of SCAD Radio, the Internet radio station at the Savannah College of Art and Design in Savannah, Georgia. Our station is entirely student run and operated following a noncommercial model. SCAD Radio is staffed primarily by student volunteers, with a handful of students receiving small monthly stipends.

We are an interested party in the proposed rule changes for a number of reasons. First, the changes will induce a significant administrative burden, which we are currently unequipped to handle. Also, the proposed changes are incompatible with both our operational situation and our educational programming philosophy and would require the purchase and deployment of technology that to our knowledge does not currently exist. Ultimately, the proposed requirements threaten the very existence of our educational program.

The proposed requirement to report actual performances instead of aggregate tuning hours is particularly troubling because our station is operated by student volunteers, who play a wide variety of music from different formats including compact discs, vinyl

records and even cassette tapes. Unlike large commercial Web casters that have integrated operations linking recordings and streaming data, SCAD Radio is more closely related to an older radio model. Our students play music from native media and follow a programming philosophy that encourages them to present a diverse array of music with special emphasis on emerging and innovative artists and culturally significant recordings seldom heard elsewhere. Stations such as ours, which pay the current minimum fee, should be exempt from the proposed changes. This would allow us to continue providing dynamic, entertaining and educational programming for our listeners and preserve important educational opportunities for students.

SCAD Radio's Web stream is fed directly from the analog output of our mixing console. Additional data is not embedded in the stream. As described above, this makes our station different from larger Web casters who have completely digital playback and streaming environments. And, as described above, the console receives input from a variety of playback devices. Our student volunteers are required to manually log the songs they play, but do not log public service announcements, voice breaks, news updates and other content that does not contain copyrighted material. It is our belief that the presence of these elements will complicate and likely prevent any accurate reporting of actual performances. We are not aware of any commercially available, affordable solutions that would allow us to accurately collect and report this data. In essence, the proposed changes would require a reporting standard that is impossible to produce. In addition, the move from quarterly reports to year-round "census" reports would bring very negative consequences for student-staffed, educational stations such as ours. It is our understanding that reports would be due 45 days after the last day of each month, an arrangement that will be impractical given our current staffing patterns.

We have made an honest and determined effort to find commercial products to help us comply with the current regulations. As stated above, student staff members manually log information via a Web-based interface. Still, this falls short of a solution for documenting actual performances at a station that features live radio programming played from a variety of media and often selected spontaneously by student staff. Even if commercial

products were available and compatible with our programming and operational circumstances, at present we have very limited annual budget for new software and upgrades to existing software. In addition, much of the computer hardware in our station is surplus inventory that has been retired from campus computer labs. Purchasing new hardware and software to comply with the proposed changes, even if such hardware and software existed, would be difficult for us.

SCAD Radio has never exceeded the listening levels that trigger fees above the \$500 minimum. This makes it especially critical to avoid additional and impossible reporting requirements. Such requirements could necessitate the discontinuation of our Internet radio station, resulting in no royalty payments to Sound Exchange at all. What's more, the proposed requirements would eliminate educational programming and deprive students of beneficial professional and personal development opportunities. Having spent the last decade working with college radio stations, it's the prospect of terminating these valuable educational experiences that is most concerning to me.

To use an analogy from sports, suggesting that the proposed changes are practical for all stations is like suggesting that there are no budgetary, operational or staffing differences between a professional sports team and a small college team competing in a regional athletics conference. Any reasonable person can conclude that the financial, physical and human resources available to a Major League Baseball team such as the Atlanta Braves are infinitely greater than those available to the SCAD Bees baseball team, which competes in the Florida Sun Conference of the National Association of Intercollegiate Athletics. In addition, the purposes of the two teams are much different. In the case of our college's baseball team, players are "encouraged to develop both academic and athletic abilities in an environment where the foremost goal is the successful completion of the college's academic requirements for graduation." Likewise the purpose of SCAD Radio is to provide students with "excellent preparation for successful careers in electronic media and other fields."

Educational, noncommercial stations that are paying the current minimum fee should be exempted from the proposed reporting requirements, in recognition of the limited resources available to these stations and in recognition of the unique and beneficial missions they serve.

Respectfully submitted,

SCAD Radio

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