

Herbert W. Robinson
116 Carver Rd
Newton MA 02461-1338
617-969-4930
March 4, 2002

RECEIVED

MAR 6 2002

GENERAL COUNSEL
OF COPYRIGHT

David O. Carson, General Counsel
Copyright Arbitration Royalty Panel (CARP)
P.O. Box 70977, Southwest Station
Washington, DC 20024-0977

DOCKET NO.
RM 2002.1
COMMENT NO. 2

Dear Mr. Carson,

I am writing to submit comments on the proposed rulemaking for webcasting rates. As a musician and copyright owner, I fully support the rights of parties to protect their intellectual property.

However, the royalty rates as currently proposed will have a negative and injurious effect on my ability to make a living.

I am an independent musician, that means I am not signed to a major record label, and instead operate as a small business. Crucial to the success of my business is the ability to receive radio and web broadcasts of my music. If I cannot promote my music to the market through airplay, my business may not survive.

It has become harder and harder for independent musicians to receive this crucial airplay in the last several years due to massive consolidation in the broadcast industry. The proposed webcasting royalty rates and many of the rules that go with them will further complicate this problem.

Because of budgetary concerns, independent musicians typically receive airplay only from independent broadcast sources that are willing to experiment with "unknown" music. These broadcast outlets, both non-commercial/college radio and Internet webcast sites, are most often small micro-businesses — the very businesses that will not be able to afford the proposed webcasting rates. It is also extremely important to my success that my existing fans request my material be played. This won't affect large stations where they don't really take requests, but usually the only listener feedback small stations receive is from requests.

Additionally, the repetition and reporting requirements may be beyond the abilities of the small broadcasters, both technically and financially. The repetition requirement would be nearly impossible to adhere to at most college stations where the DJs typically have short shows and program them on their own without consulting with other DJs. There is no practical way to ensure that the same artist will not be repeated too often on different shows. It is also far too much of a burden on small operations to track down 20-30 items for every song played. Especially considering that the Collectives for clearing the payments must already have this information assembled in a database for their own tracking purposes.

The proposed rates are likely to drive many small broadcasters, and many of the independent musicians that depend on them, out of business. Only large broadcasters will be able to afford the webcasting royalty fees. This represents another attempt by the large music labels to effect what is essentially monopolistic control over all forms of music distribution. My only real competitive advantage over the large corporations is the ability to offer my product at a

lower price. By setting the rates so high and setting them the same for all players, you wipe out whatever tiny chance I have of getting any airplay.

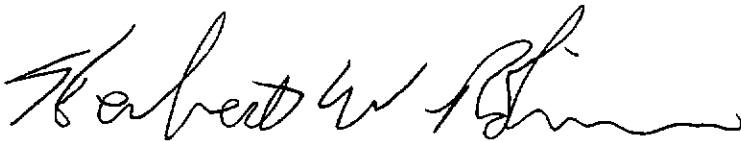
The negative effects of this situation are difficult to overestimate for the small business musician; therefore, I ask you to reconsider the proposed royalty rates and bring them down to a level that small broadcasters can afford.

If that alternative is impossible, I urge you to define a new "promotional" tier of rates. The new promotional tier would have much lower rates designed to be affordable for the smaller webcasters and to promote new acts. Copyright owners would select which rates apply to their material. The rates could be included in a database provided by the Collectives, or possibly separate collectives could be established to handle the different rates. The promotional rates would also allow requests and would not restrict how much the material is played. To make this manageable, Copyright owners would be restricted to a window (once a year, perhaps) when they could change the rates for their material.

I also ask you to require that all Collectives provide to webcasters (for no more than a nominal duplication fee) a database with the necessary reporting information for all material cleared through that collective. This requirement should include incremental updates to the database that are also available at nominal cost to webcasters (either by mail subscription, email subscription, or internet download). The Collective will have to maintain a database like this for its own tracking purposes; so, it is a ridiculous duplication of effort to require webcasters (large or small) to separately generate this data. Not to mention the fact that resolving all the mistakes in the data delivered by the webcasters will probably take more labor (at the Collective) than providing the database to the webcasters in the first place.

Such a database should be indexed by the Collective name (computer names assigned by CARP or some other designated administrator) plus a unique name assigned by the Collective for each work it clears. This would allow copyright owners to include bar codes on their promotional materials (with a keys into the index for each song). The bar code idea is to further streamline the reporting process; although, this should not be required as small copyright owners might not have the graphic capabilities to generate the bar codes.

Sincerely,

A handwritten signature in black ink, appearing to read "Herbert W. Robinson". The signature is fluid and cursive, with a long, sweeping underline.

Herbert W. Robinson