

May 6, 2009
KTRM-FM
Truman State University
100 E. Normal Street
Kirksville, MO 63501

Library of Congress
Copyright Royalty Board
Copyright Royalty Judges

Dear Judges,

This letter is in response to the Notice of Inquiry [Docket No. RM 2008-7] posted in the Federal Register (April 8, 2009). The Royalty Board has requested comments from interested parties regarding costs and obligations associated with census reporting and other issues related to our relationship with SoundExchange.

I am an adviser to student media at Truman State University. After many years of radio industry experience (which included close attention to copyright issues), I began a career in academics 14 years ago and have advised student media since 1999. I hope the Royalty Judges find my strong broadcast background and the significant copyright issues that confront student radio operators at KTRM-FM, Kirksville, useful in the current deliberations.

First, some brief background. KTRM is licensed to not only serve its community through music and news programming but also as a “learning lab” for aspiring broadcasters. KTRM is licensed by the FCC as an educational (not for profit), noncommercial station; thus, we are dependent on donations and university support (we cannot sell advertising). Average yearly revenue from donations the last several years has totaled less than \$2,500 annually. Since 2005, our annual operations budget from the university has totaled about \$7,500. In sum, KTRM operates on an annual shoe-string budget of about \$10,000. In addition, the station has *no full-time personnel*. Students staff the management positions, part time, for small monthly stipends. Other students work scholarship hours or volunteer to produce music and news programming. KTRM began streaming audio about 2006 on a university server (rather than a costly third-party server) that does not document numbers of computers connected to the stream. KTRM “pulled the plug” in 2008 following a series of demands from SoundExchange to comply with rules and regulations that, simply put, have become too burdensome for a small station to undertake on a day-to-day basis.

Second, unlike commercial operators with larger server-based systems, KTRM’s students do not play music from a centralized server. The bulk of KTRM’s music is played by live announcers from Compact Discs (CDs) and occasional record albums. The choice to do so is both creative *and* practical. The creative aspect involves the art of live announcing with a physical medium; the practical relates to our inability to afford adequate software and server playback for a CD library that has thousands of titles. Simply put, it is more practical to pull CDs from the library and broadcast/stream rather than transferring thousands of CD titles to a server-based system that we cannot afford to purchase and maintain. KTRM utilizes automated playback software for a

few hours overnight (when no live announcers are on duty) on a PC, but the computer playback hard drive contains a few hundred titles, which does not represent the vast variety of music broadcast on live shows on CD and record album.

Maintaining a reliable system of tracking every song for a two weeks required the station to hire (and pay from a limited budget) a part-time student whose sole task was to accommodate the reporting scheme demanded by SoundExchange. We strongly considered ending our streaming based on those rules because we do not have a set “playlist” for each show. The concern lies with each live announcer manually notating every song title, artist, album name and number of spins on live shows for long periods of time (two weeks every quarter). The task becomes overbearing because live announcers must divert creative on-air energies to document songs (typed into a file or handwritten) day after day...during live shows.

Third, the Judges have asked for potential solutions. KTRM claims artists are due revenue for their creations; however, other copyright services *do not* require song and artist documentation as part of the contractual fees KTRM pays each year. SESAC and ASCAP secure yearly copyright composer fees without documentation from small, educational noncommercial operations. Somehow, the two services fairly compensate songwriters. KTRM suggests that a similar arrangement be structured for small, educational station noncommercial radio stations. KTRM is willing to pay an annual fee to SoundExchange, just as it does for ASCAP and SESEAC—minus the reporting obligations.

Finally, if the Truman State heritage of maintaining an educational learning lab in broadcasting is to continue forward, a music stream is part of that learning experience. The situation at Truman is not unique. Several public institutions have pleaded similar cases to the Copyright Royalty Board. Based on the evidence presented here, the Royalty Judges should consider the reality of restrictive budgetary and staffing issues and copyright streaming reporting rules for educational facilities, such as KTRM. Please contact me with any questions or comments.

Sincerely,

Dr. Mark Smith
Associate Professor and Adviser, KTRM
Truman State University
smithm@truman.edu