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

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

COMMENTS OF WPTS-FM

WPTS-FM is a non-profit, non-commercial, educational Class D FM radio station
licensed to the University of Pittsburgh. We also simulcast our programming on the
internet at www.wpts.pitt.edu/live, which is a vital component of our operations,
particularly in light of our target demographic (high school and college students) and our
limited range (10 watts). Aside from a full-time staff advisor and a part-time staff
engineer, WPTS-FM is entirely student operated. Its operating budget is funded entirely
by student activity fees paid by University of Pittsburgh undergraduates.

We are submitting comments because the proposed rules for recordkeeping are, in our
view, onerous and unreasonable, and will create severe hardship for us, forcing us either
to eliminate our webstream entirely (resulting in no royalties at all being paid) or, even if
we were able to continue webstreaming, to devote such resources to comply that other
operations will be truncated or eliminated. We request that small webcasters – those
currently paying the $500 minimum fee – be exempt from the proposed regulations.

Like many college stations, WPTS offers an eclectic mix of music on various media, with operators utilizing compact discs, vinyl, and Mp3, in addition to an automation system for use when running unattended. This creates a great degree of difficulty in accurately tracking what is played on our air.

To mitigate this problem, we have internally developed an electronic logging system which keeps record of all sound files played from the automation systems and allows operators to manually input items played from other sources. However, this does not make complying with even the current regulations easy, for several reasons:

1. The system is designed to capture ALL elements broadcast on WPTS, not just songs. In preparing the reports for SoundExchange, about 15 minutes per broadcast day is spent manually deleting non-song elements from the log.
2. Our automation system – the SS32 – limits what metadata can be entered into each track. Therefore, even if we fundamentally changed the nature of our operation to require all music to originate from the SS32, we still could not simply cut-and-paste the data into the SoundExchange templates. Among other issues, there are only three fields available in the SS32 (Title, Artist, Note) and a very limited number of characters per field.
3. Our logging system is only as good as the people and technology it utilizes. Commonly, operators do not have access to all the required information, make typographical errors, or use abbreviations. Furthermore, occasional network outages will cause us to lose data. Finding and correcting these problems requires a line-by-line review of the logs prior to submission.

We estimate that preparing each day's log for submission to SoundExchange takes two hours of work. Under the current two-weeks-per-quarter regulations, this additional time can be absorbed by current staff. However, should census reports be required, an additional part-time staff member have to be added at a cost – according to University of Pittsburgh staffing requirements – of an estimated $7650 per year – a significant portion of our annual operating budget, including compensation.

Making this issue more troubling is the divergence between these proposed regulations and the requirements imposed on behalf of other copyright administrators, such as ASCAP, BMI, and SESAC. These administrators ask for, at most, only small amounts of data from radio stations. These precedents demonstrate that the claim that census reporting is necessary for a copyright administrator to fairly allocate royalties is specious.

Further complicating matters is the proposed deadline of 45 days after the last day of each month. Being student-run, WPTS-FM's staffing levels fluctuate with the academic calendar. While the proposed deadline may not be a problem during the Fall and Spring semesters, it would be very difficult to comply with during summers and school breaks.

The proposed technical requirements are no less troublesome. I am aware of no streaming service which offers per-listener-per-song data to its clients. We operate our own streaming server. We are currently ascertaining whether we can parse our logs to comply with the proposed regulations. If so, it would certainly involve hiring a programmer to create a program to calculate this data – another major expense. Even were it possible to ascertain, the accuracy of such data would be questionable. For instance, since only element start times are recorded by our system, the per-listener-per-song data might include listeners who tune in only during unlogged events (such as DJ mic breaks). Those listeners would erroneously be credited to the previous song under our system. To my knowledge, there is no system available for purchase that will allow us to comply with the proposed requirements.

WPTS-FM is a very small operation. We pay only the minimum fees under the current system. Even if we were able to provide accurate numbers of actual performances, the miniscule amount of variance would hardly be worth the burden the proposed requirements would impose. We feel that ATH, for webcasters with such small audiences, is a sufficient metric.

To recap, WPTS-FM believes that small student webcasters paying only the minimum fee should be exempt from the proposed regulations for the following reasons:

1. Census reporting is overly burdensome to small webcasters.
2. The 45-day deadline is not feasible for student-staffed stations
3. The technology to comply with the technical requirements does not exist commercially.

Thank you for your attention in this matter.

Respectfully submitted,

WPTS-FM

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