

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  
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NOTICE AND RECORDKEEPING FOR USE OF )  
SOUND RECORDINGS UNDER STATUTORY )  
LICENSE )  
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**COMMENTS FROM WKNC-FM**

WKNC-FM, offers these comments on the Copyright Royalty Boards' Notice of Proposed Rulemaking (Dec 30, 2008, 37 CFR Part 370, Docket No. RM 2008-7). WKNC is a student-run non-commercial radio station operating under Student Media at North Carolina State University. We broadcast at 88.1 FM and simulcast our programming online at wknc.org. We are an interested party, as these proposed rule changes will impact the way WKNC operates.

Because of our relatively small audience, WKNC currently pays only the annual minimum fee for non-commercial webcasters. The proposed changes concerning census reporting and the requirement to report actual total performances instead of aggregate tuning hours would be an undue burden on our small station. We also have concerns about the 45-

day proposed deadline for filing reports of use on a monthly basis.

WKNC currently logs its playlist using a combination of automatic and manual entries. Every song played from a CD or LP must be manually entered by a volunteer student DJ. While we do our very best to ensure accuracy in our reporting, it would be impossible to provide a 100% accurate report of our weekly playlist. It is currently up to the station adviser to compile the two-week playlist required for quarterly reports of use. This is an important, but burdensome, task that takes between five and eight hours each quarter. The proposed changes call for census reporting, a report of each and every sound recording played on our radio station. While we respect that census reporting will present a more accurate report of use, we believe the two-week period currently required is sufficient. Even performing rights organizations ASCAP, BMI and SESAC only require representational samples. The Notice of Proposed Rulemaking states stations have had ample time to familiarize themselves with the reporting requirements and make adjustments to comply with census reporting, but a non-commercial radio station operated by students, like WKNC, does not and likely never will have the time or expertise required to allow census reporting.

Our second concern is with the proposed change to require reporting of actual total performances rather than aggregate tuning hours. Our log file shows thousands of one- or two-second connections by bots and spiders, programs or automated scripts that connect to the stream but do not represent an actual listener. Counting every connection regardless of

length would artificially inflate the number of total performances, while aggregate tuning hours represents actual time listened to the station. Our station's stream is set up in-house and has no connection to our logged playlist. To even attempt to provide an accurate number of actual total performances, we would need to manually log the start and stop time of each sound recording and then compare those times to the streaming log. For students just learning radio operations and making sure they press the right buttons, they simply do not have the capacity to log start and stop times. We have a mechanism to count the current number of streaming listeners, but accounting for constant connects and disconnects from spiders and bots for every second of every day is an unrealistic and an undue burden for a station of our size and circumstance. We simply do not possess the resources to calculate actual total performances and are not aware of any commercially produced software to accomplish this task.

Finally, WKNC has attempted to file its quarterly reports of use within 45 days of the end of each quarter. On more than one occasion, however, we have failed to meet this requirement. We believe a 90-day requirement in which to file reports of use would allow us sufficient time to compile reports of use and calculate aggregate tuning hours for a two-week period.

Our Web stream allows WKNC to reach former students of N.C. State and others no longer in our broadcast coverage area. We are proud to offer this service and strive to comply with the rules set forth by the Copyright Royalty Board in respect to webcasting.

However, we would likely be unable to comply with proposed changes to require census reporting and actual total performances and thus be forced to stop streaming. We urge you to consider exempting WKNC and similar non-commercial, student-operated radio stations that pay the minimum fee from these proposed changes.

Respectfully submitted,

WKNC-FM

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