

Before the
COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, DC

_____)	
In the Matter of)	
)	
Notice and Recordkeeping for Use of)	
Sound Recordings Under Statutory)	Docket No. 14-CRB-0005 (RM)
License)	
Notice of proposed rulemaking)	
)	
_____)	

Comments of WRFL-FM

Pursuant to the above captioned Notice of Proposed Rulemaking ("Notice") which appeared in the Federal Register on May 2, 2014, WRFL-FM, submits its comments. WRFL-FM is currently considered a Noncommercial Educational Webcaster ("NEW") as defined by 37 CFR §380.21. WRFL-FM broadcasts at 7900 watts to an audience located in Central Kentucky from the University of Kentucky in the city of Lexington. A student staff of 15 directors, working with one staff advisor, manages station operations; including a staff of 90-100 student and community volunteer DJs.

The designation as a NEW has suited us well, as the Reporting requirements under 37 CFR §380.23 allow WRFL-FM to report via proxy. We would like to retain the ability to report as a NEW for as long as possible, and request that the regulations which appear to sunset these recordkeeping provisions be removed so we can continue to report as a NEW even after December 31, 2015. The §380.23 regulations were adopted as precedent and should be allowed to remain as the recordkeeping and reporting regulations as they serve us well, will allow us to continue to webcast, and have been previously approved and adopted as a reasonable.

With respect to the elimination of the requirement of a template in Quatro Pro, WRFL-FM has no objection; however we respectfully request that this requirement be replaced with a template as Google spreadsheet. Also, the current Excel template should be updated to conform to any and all adopted changes.

WRFL-FM feels that the requirement to submit a copy the Notice of Use directly to SoundExchange is unnecessary and likely to be overlooked. This problem would be eliminated if stations could complete a form on-line and submit payment with a credit card. A copy of the electronic submission could then automatically be forwarded to SoundExchange.

WRFL-FM is very relieved to see that the proposed regulations included the qualifier, “if feasible” with respect to reporting the ISRC because it would be very difficult to engineer a workflow that would make said reporting feasible, given the nature of student time spent working at the station—full-time student schedules already leave our student managers maximized in regards to work they can do for the station on an extra-curricular basis. Adding this extra amount of work to their already maximized load would be very difficult to systematize, delegate, and complete. As we depend upon live DJs versus an automated system, accounting for all the additional data would not be a simple process and most likely would fall short of the requirements. This would put us in a position to rethink webcasting altogether. If that service were to go away from our regular operations it would significantly and negatively impact our ability to reach our audience on campus and in the community.

Also, we would not be able to immediately handle the generation of reports of this type given the current tracking/play-listing system we have in place. Currently, ISRCs are not supported by our streaming software or song logging system, so we would need to determine a new system to use and implement it.

The proposed regulations include the following;

(ix) In the case of a classical recording:

- (A) The ensemble (e.g., orchestra or other group) identified on the commercial product packaging, if any;
- (B) The conductor identified on the commercial product packaging, if any;
- (C) The soloist(s) identified on the commercial product packaging, if any;
- (D) The composer of the relevant musical work;
- (E) The overall title of the relevant musical work (e.g., the name of a symphony); and
- (F) The title of the relevant movement or other constituent part of the musical work, if applicable;

WRFL-FM must object to these new requirements because this type of reporting is not compatible with anything we have in place. Also, the amount of music we play from this genre would not be worth the expense of updating our system just for classical music. We would most likely have to strike the genre from our programming.

WRFL-FM must also strongly object to the proposed new requirement to be required to add the “The letters “NLR” (for “no license required”) if the Service has excluded the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because transmission of the sound recording does not require a license, or the letters “DL” (for “direct license”) if the Service has excluded the sound recording from its calculation of statutory royalties in accordance with regulations setting forth the applicable royalty rates and terms because the Service has a license directly from the copyright owner of such sound recording.”

WRFL-FM objects because of the inability to always determine the nature of these designations in all cases, given the inability for ALL of our programmers to make said designations at this time AND because no definitive listing exists to help us make said designations at all times. We’d be guessing, at best, or would need to make too big a

technological or staffing investment to make the necessary changes for completely accurate compliance.

WRFL-FM is also uncomfortable with the provisions for a late fee for “non-compliant” reports of use, even if timely filed. We’re unclear as to the nature of what would constitute a non-compliant report of use (missing info, typos, mistaken designations, etc.) and what sort of evaluation process for penalties and late fees would be used. If said penalties seemed out of step with the amount of additional work required to make reports of use according to the guidelines suggested above, we would most likely be forced to reconsider webcasting altogether.

WRFL-FM must object to the proposed change of due date for ROUs submitted from the current 45 days after the close of the relevant reporting period to 30 days because, given our staffing and system concerns, should said changes go into effect, we would need all the time available to check our data for accuracy, format it properly, and schedule enough time to actually complete the reports.

Conclusion

For the above reasons, WRFL-FM believes that the §380.23 provisions for NEWS should be extended indefinitely as we may not exist if they go away as they have demonstrated to date their workability and success in helping student-run stations/webcasters comply with regulations. Furthermore, the failure to extend the §380.23 provisions for NEWS may result in WRFL having to shut down its webcasting operations, which would be a disservice to both our students and our listeners.

WRFL-FM strongly objects to any regulations that remove the option to pay a proxy Waiver fee based on audience size and require NEWS to submit quarterly ROUs,

as it will place an unmanageable burden upon our station. We object to proposals to report ISRC reporting, special reporting for classical music and music with special licensing permissions or no licensing required. WRFL-FM also cannot support, in current form, the proposed provisions for a late fee for “non-compliant” ROUs and the reduction in due date for ROU submissions from 45 days to 30 days after the close of a reporting period.

Dated: June 25, 2014

Respectfully submitted,



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