COMPANIES THAT own the rights to recorded music or video are understandably anxious to make money from the use of their products on the Internet. But they are going too far in two cases, and they ought to temper their concern for profit with an awareness that not everyone who runs a website can afford to pay what the companies would like to charge.

The most serious threat is to small Internet radio stations that will now have to pay a fee for each song played, instead of contributing a set portion of revenues to a music company clearinghouse. One operator in Chicago expected his costs to increase from $48,000 to $600,000 a year. This was all done under the authority of the Digital Millennium Copyright Act, passed in 1998. Congress ordered these charges for Internet radio, but declined to apply the fees to FM and AM.

AM and FM broadcasters have long been exempt under the theory the music companies should be grateful stations were promoting their music, which fans would then buy in the form of records, tapes, or compact discs. That business model needs to change because of the persistence of illegal music sharing on the Internet and the erosion of music sales.

Perhaps Internet broadcasters should pay more than they did when fees were last set in 2002, but the US Copyright Royalty Board should not have adhered so closely to the industry position with the new schedule. It is not in music companies' interest to discourage the growth of Internet radio, which provides a new audience for their songs.

Lawyers for the Internet stations are thinking of going to court in an attempt to reverse the increases. The music companies ought to preempt a lawsuit by negotiating lower rates. Then they should devote
their energy to getting Congress to make sure that regular stations pay similar fees.

While music companies benefit from the 1998 copyright law, Viacom Inc. is attacking one of its most important sections. Enraged that some of its most popular TV programs are showing up on YouTube, Viacom has filed a $1 billion suit against Google, which recently bought the popular video website.

YouTube, not yet created when the Digital Millennium Copyright Act was approved, is just the kind of innovative service that law is supposed to help. It protects websites from legal liability if they inadvertently provide a forum for copyrighted material.

YouTube needs to do a better job of filtering videos that Viacom and other producers don't want on the site. But as with the music case, lawsuits should be the least preferred option. Viacom and YouTube could also negotiate an arrangement, for much less than $1 billion, that keeps some content on the site. The Internet, as it evolves, continues to disrupt old business models. But the public interest is best served by innovation, not lawsuits or excessive fees.

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