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EDITORIAL

## Giving streamers a royalty pain

Internet radio stations should pay fees to artists and labels, but a recent increase could kill the small guys.

March 8, 2007

AN OBSCURE FEDERAL panel has sent Internet radio stations into a panic. The Copyright Royalty Board's decision to increase the amount of royalties due to music labels and recording artists is nominally a victory for labels and artists. But the victory could be Pyrrhic if it forces a consolidation and commercialization that robs online radio of its musical diversity.

The latest rate-setting drama is a virtual replay of one six years ago, when the music industry and webcasters went to arbitration over the industry's initial royalty rates. Those rates, which the Librarian of Congress set in 2002, led to apocalyptic predictions about the end of free radio online, prompting Congress to suspend royalties temporarily on behalf of small and noncommercial webcasters. Small commercial stations later won a deal that allowed them to pay a percentage of their revenue in place of a fee for every song heard by each listener. And noncommercial college stations bargained for a low, flat fee.

Those rates expired at the end of 2005, and once again the various sides found themselves pleading their cases to a federal panel instead of making deals with each other. This time, the Copyright Royalty Board provided discounts only for noncommercial stations with, on average, fewer than 218 simultaneous listeners.

There is some rationale for having a single rate for broadcasters regardless of their popularity or mission. After all, a song's value to copyright holders doesn't change according to who plays it. In reality, however, rates vary widely in the radio market. Satellite broadcasters pay royalties based on a percentage of their revenue; local radio stations pay no royalties at all to labels or artists for their over-the-air broadcasts.

If the purpose of the royalty system is to allow artists (and labels) to benefit from their creativity — and it is — then they would be foolish simply to use the system to push royalty rates as high as they can go. A better strategy would be to derive the maximum possible benefit from online broadcasting, in terms of royalties and exposure. Given the tightening playlists of over-the-air stations, webcasters are among the few reliable outlets for lesser-known and new artists. The Pandora.com online radio service, for instance, says its listeners hear music by more than 30,000 artists each week.

Labels and artists should be paid for their music by everyone who broadcasts it, online and off. But if the music industry simply charges small and noncommercial webcasters the maximum rate allowed, it could put them out of business. Then they wouldn't be paying any royalties at all — and it'd be the industry's turn to panic.

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