Shaken Internet Radio Stations Face Specter of New Fees Sunday

By Kendra Marr
Washington Post Staff Writer
Friday, July 13, 2007; Page D03

Sunday will be a day of reckoning for Internet radio stations.

The D.C. Circuit Court of Appeals has refused to stop an increase in royalty and broadcasting fees, jeopardizing the future of some stations. As a result of the decision, handed down Wednesday, fee increases will take effect in two days.

The Copyright Royalty Board, which is part of the Library of Congress, decided in March to almost triple royalty rates by 2010 and impose an annual $500 fee per station or channel. The decision was urged by SoundExchange, an organization created by the recording industry.

In recent months, some smaller Web stations shut down in anticipation of the higher fees. More say they will close as a result of the court decision.

Web radio stations and their listeners have been lobbying Congress to pass legislation that would void the Copyright Royalty Board's decision and use a system that would assess royalties based on a station's revenue. But there has not been any legislative action on the proposal.

The four largest Internet-radio providers -- Pandora, Yahoo, Rhapsody and Live365 -- have tens of millions of channels among them. Pandora can afford to pay fees on Sunday
but will continue to lobby Congress for changes, said founder Tim Westergren.

"This is just about the artists getting paid fairly," said Richard Ades, spokesman for SoundExchange. "Artists and labels just want a fair share of the pie."

Michael Huppe, SoundExchange's general counsel, said it was still negotiating with Internet broadcasters to reduce the burden on small and non-commercial webcasters. Yesterday during a meeting of both sides organized by members of Congress, SoundExchange offered an annual fee cap of $50,000, if the broadcaster reports everything that is played and adopts technology that limits the ability of listeners to copy broadcasts. The annual fee can be deducted from the royalties paid to artists and record labels.

But as it stands now, starting Sunday, webcasters will retroactively pay artists and record labels the difference between the new and old royalty rates for 2006.

"Nobody wins when Internet radio gets shut down, including artists who ostensibly are being represented by SoundExchange, the organization pushing for high rates," Westergren said. "It's ironic. If SoundExchange gets their way, it means less money for musicians because people will cease to pay royalties all together."

Today about 70 million people a month listen to Internet radio and thousands of unknown artists depend on webcasts to promote their music, according to the SaveNetRadio, a coalition of artists, labels, listeners and webcasters lobbying Congress.

Royalties for Internet radio differ greatly from its satellite and terrestrial counterparts. Internet companies 0.000762 of a cent per song, per listener. Satellite radio companies pay a percentage of their revenue. Under copyright laws, land-based radio stations, traditional AM and FM radio, pay nothing.

"It's because we came to the party late," said Jake Ward, spokesman for the SaveNetRadio coalition. "The laws that govern satellite radio and terrestrial radio have already been grandfathered."

He added, "It's unique to Internet radio that at any one point you can tell how many people are listening. It works to our disadvantage to be asked to make payments based on this unique quality."

Jake Sommers, 47, a DJ in Columbus, Ohio, shut down his hobby jazz trumpet station, http://jazzplayerradio.com, on April 30 when he found out it would cost him $2,000 a month to operate. Sommers had 20,000 listeners a month.

"We never made a dime," he said. "It was a labor of love. Everything we made we put right back into radio station. It was a bunch of trumpet geeks playing music for other trumpet geeks."

Michael Clark, 38, of Woodbridge, closed one of his two all-Christmas music stations when he discovered it would cost him between $13,000 and $14,000 during the 2007 holiday season alone. His stations, http://christmasmusic247.com, have a worldwide audience. Clark has received e-mails from missionaries...
in Africa, an America tourist in Japan and people who hadn't heard their Christmas favorites in years.

"It's a rush," he said. "It's a lot of fun and makes me feel good." Clark said he was still undecided what he would do after this weekend, when he will owe $8,000 in royalties.