



5777 Madison Avenue
Suite 1105
Sacramento, CA 95841
916-332-3263

RECEIVED

March 2nd, 2005

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Copyright Royalty Judges (CRJ)/CARP
P.O. Box 70977
Southwest Station
Washington, DC 20024-0977

**GENERAL COUNSEL
OF COPYRIGHT**

 **COPY**

ACTION: Notice announcing commencement of proceedings with Request for Petitions

RE: Federal Register, February 16, 2005 (Volume 70, Number 31)

My name is Valerie Starr, and I am petitioning to be allowed to participate in the upcoming proceedings to properly and fairly adjust the current rates and terms for the digital public performance of sound recordings for the period beginning January 1, 2006 and ending on December 31st, 2010.

I am the founder and President of GotRadio, LLC, which is a multi-formatted internet radio station. This is my third internet radio property, and I have in-depth domain expertise in the field of internet radio. I participated in helping to bring about internet radio reform and the Small Webcaster Act, and have provided previous Testimony to the US Senate Committee on the Judiciary, a copy of which I have enclosed.

In addition, my professional background includes independent and major label record promotion, which provides for me, a full bodied perspective to these very important proceedings.

To present, in my opinion, the royalty rates have been very much weighted in favor of the major record labels and are far and beyond what the actual copyright holders (the songwriters) are receiving as compensation for public performances of their songs.

Currently the rate that is collected by the publishing entities, i.e. ASCAP and BMI, is set at 1.75 percent of gross revenues. The RIAA (mechanical copyright holders) are collecting an astronomical 10 percent of our gross revenues (over 5 times that of the songwriters). This makes it extremely difficult for internet radio to realize a profit, as nearly 15% of all our profits are earmarked for royalties.

If I may present an analogy; picture if you will an original piece of art that is being exhibited at a Museum as well as a replica of the same piece of art. The museum is charging \$10.00 admission to view both pieces of art and will pay both the original artist as well as his "copycat" a percentage of the door. If we use the same percentages that are being presented to Internet Radio in the form of mechanical royalties (record labels) versus publishing performance royalties, the original artist who painted the artwork would receive 17.5 cents per person, while the artist who painted the replica of the original art, would receive a dollar. In other words, the way the current rates for Digital Public Performances are set, they may actually yield more money for musicians that "copy" and record original pieces of music, rather than those that created the songs to begin with. (This is assuming that 50% of the monies collected by Sound Exchange on behalf of the record labels actually gets back to the performing artists). This makes absolutely no sense to me whatsoever, and quite frankly puts into question what and who our copyright laws actually protect.

Historically, traditional radio in the United States has never paid any such royalties to the record labels and to this day, continues to be exempt from a public performance mechanical royalty. We consider traditional radio to be a direct competitor to our industry, and therefore this royalty immediately creates an unfair playing field for Internet Radio owners. Furthermore, radio (whether it be transmitted through cable/dsl lines or airwaves) has always provided a much needed promotional outlet to expose new music product for the record labels.

Collectively, internet radio owners are resigned to the fact that we must now pay this additional royalty, however, we feel that the current percentage is way off the mark, and should be more in line with the rates that the ACTUAL copyright holders receive for public performances of their songs.

Internet Radio has been unfairly and wrongly associated with pirating and downloading on the internet, when the truth is, all internet radio does is promote and support new music product, and foster cd sales for the major labels.

I would very much appreciate the opportunity to have my voice heard in these proceedings, as they directly affect the future of my company as well as directly affects internet radio's' ability to become a profitable and successful new industry.

Most sincerely,

Val Starr, President
GotRadio, LLC



Testimony
United States Senate Committee on the Judiciary
Copyright Royalties: Where is the Right Spot On The Dial For Webcasting.
May 15, 2002

Ms. Valerie Starr
 President , ChoiceRadio.com

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Statement of Valerie Starr

GENERAL COUNSEL
OF COPYRIGHT

I am a webcaster, and was informed that Sen. Leahy was interested in hearing from webcasters in regard to how the recommended CARP rate will affect us directly, our industry as a whole and most importantly, the people of the United States.

My name is Valerie Starr, and I am the President of Internet Radio Inc. (on-line radio properties include alldanzradio.com and choiceradio.com)

My background is in independent radio promotion (15 years in the business). 5 years ago, weary of the weekly struggle and pressure to assist the major record labels in securing the rapidly diminishing (and costly) spots on traditional radio to play new music (mainly due to radio consolidation), I saw a wonderful opportunity to provide my colleagues with a new medium to help promote and sell their artist product....namely internet radio.

Some consider me to be one of the pioneers of internet radio, starting my first internet radio station in 1998. In 1999, I founded ChoiceRadio.com and with a few early believers, raised enough money through a small friends and family round of financing to start my business. I am proud to be one of the remaining survivors of the early days of internet broadcasting, with many of my heavily funded competitors going out of business due to high overhead, high bandwidth costs, absence and slow adoption of advertising support, an overall downturn in the marketplace and lack of confidence in dot coms. Thankfully, in May of 2001, the company was acquired by Internet Radio Inc.

In the beginning my promotional colleagues at the major labels were thrilled at the prospect of having another means to promote their artist product other than traditional radio and the few and coveted spots on MTV/VH1. As time went on, and with the Napster issue and heightened threat of piracy, paranoia was ramped and the major labels started turning the wheels in motion to stall and possibly stamp out an industry that was still in it's infancy. An industry that could very well provide a valuable and free promotional service to them, however an industry that they had no control over and did not understand. Confusing and blurring the lines between streaming and actual downloading of music, the RIAA was successful in

convincing Congress that the threat of piracy due to streaming "exact replicas" of the original sound recordings was real and the DMCA quietly slipped through into law. In actuality, the ability and desire to "pirate" internet radio streams is less likely than a person who would record their favorite radio station directly off their stereo. The 22kbs and 48kbs streams we provide offer far inferior sound quality to the end user and is a far cry from an "exact replica".

Choiceradio has hung in there and today our network is ranked #6 in the country according to measurecast*(<http://www.measurecast.com>) *measurecast is owned by the Nielsen company.

We stream on average over 400,000 total listening hours per week to over a million listeners per month. At this rate of streaming, and with no increase in listenership, we would owe more than \$500,000/year to the major labels if this proposed royalty fee becomes law. This is no where near the \$500.00/year that we pay each publishing collection entity, ASCAP, BMI, SESAC. The RIAA keeps rebutting that we are crying wolf and that the rates are not as high as we claim them to be. Please check out the real math behind our individual story:

During the week of 4/29 - 5/5 IR Inc had...

475,076 ath (total listening hours)
 x 52 weeks/year
 =24,703,952 ath/year
 x 15 songs/hour
 =370,559,280 songs/year
 x .0014 cents
 = \$518,782.99 /per year

This is assuming that we have NO growth and stay steady throughout the year, however in just one week, our radio stations have increased in ath by 100,000 hours. At this growth rate, we would be off the charts in terms of royalty payments.

There is absolutely no way to scale our business or even stay in business with a royalty rate that is 5x's our gross yearly revenues.

Recently, we have been extremely encouraged by an increase in advertising support. We feel that our business model is a sound one; one that has been a proven successful model by traditional radio for the past 75 years, and if left alone to build into a mature industry, we will be in a better position to pay a percentage of our revenues to the copyright holders, (a precedent for this type of royalty rate being already set by ASCAP and BMI). However, I would like to point out that I fail to see the logic behind a law that requires an industry based on the exact

business formula of another (with the only difference being the deliverance of the product itself - streaming vs. airing) to pay a royalty when the other does not. This creates an extremely unfair and uneven playing field between internet and traditional broadcasters. To add insult to injury, the amount of data that, per the CARP's recommendations, we are required to give back to the labels, is incredibly burdensome and in itself will cause many internet radio stations including college and educational stations to go under. Note that terrestrial radio is only required to report 3 weeks logs of artist/title and label information to ASCAP/BMI.

We are passionate about our radio, but truly the most passionate are the listeners themselves. And it is these listeners who stand to lose the most if this proposed royalty rate becomes law. Internet Radio is rapidly growing in popularity but we haven't even scratched the surface for potential listeners. As broadband continues to roll out at its own speed, our goal as an industry is to directly compete with the Clear Channels of the world. Currently our listeners are comprised mostly of the upper demo, highly educated workforce who delight in having the ability to choose special genres of music during the day, which are not available on traditional radio. Diverse and rich content is now available to all because of internet radio. Music that has been silent for years is now flourishing on the web...bluegrass, reggae, classical, new age, native American, big band, swing....I could go on and on.

Also it is important to note that we provide a much needed avenue for many independent labels and artists to get their music out to the world. Musicians that would not stand a chance to compete with the heavily financed and promotionally supported major label artists.

Please, please Senator, continue to review these facts. We truly hope that Congress will acknowledge our viewpoint and understand that all we want is a fair platform in which to compete and grow our businesses.

Sincerely,

Val Starr, President
ChoiceRadio.com