



Future of Music Coalition

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APR 5 2002

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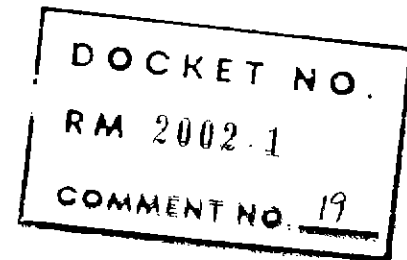
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Comments to the Copyright Office, Library of Congress, Notice of Proposed Rulemaking

VIA HAND DELIVERY
Office of the General Counsel
Copyright Office
James Madison Building, Room LM-403
First and Independence Avenue, SE
Washington, DC



RE: Notice and Recordkeeping for Use of Sound Recordings Under Statutory License, 37 CFR Part 201 April 5, 2002

The Future of Music Coalition (FMC) is a not-for-profit collaboration between members of the music, technology, public policy and intellectual property law communities. We seek to educate the media, policymakers, and the public about music and technology issues, while also bringing together diverse voices in an effort to come up with creative solutions to some of the challenges in this space. Working as we do within the grassroots and music communities we have a unique vantage point from which to view the effects of the recent CARP proceedings and the resulting findings and requirements. It is our belief that the overwhelming majority of musicians, programmers, webcasters and citizens impacted by this decision are struggling without a clear understanding of how these decisions will effect their livelihoods and business models.

It is in the spirit of clarification that the FMC appreciates the opportunity to present its views on the Notice of Proposed Rulemaking published in the Federal Register on February 7, 2002. We look forward to reading the submissions of other organizations, and plan on presenting a more detailed analysis of the challenges facing the Copyright Office in the Reply Comment phase. At this point, however, we wish to make three general points:

1. We congratulate the Copyright Arbitration Royalty Panel on establishing the statutory webcasting royalty at a rate that clearly recognizes the value of music as artistic labor. We hope that the Copyright Office and partici-

pants in the CARP will work productively to address specific issues related to non-commercial and hobbyist licenses. The Federal government should make protecting and expanding this innovative, non-commercial application of technology a priority because it provides necessary and beneficial exposure for artists who are blocked out of major promotional channels.

2. Notwithstanding issues related to the CARP proceeding and the payment of these specific royalties, reporting requirements solely for hobbyist webcasters, community broadcasters and non-commercial college radio should be similar to those currently enforced by the United States Performing Rights Organizations, namely, ASCAP, BMI and SESAC. It is important, however, to note that given the "cutting edge" nature of this particular constituency's cultural contribution, they do need, at a minimum, to inform any and all collection agencies (e.g., Sound Exchange) of their "playlists" so that lesser known recording artists and small independent recording labels are properly credited with their share of digital performance royalties for sound recordings. If reporting was limited to commercial webcasters, there is a danger that royalties that should be allocated to less well known recording artists and record labels may in fact be paid to their larger and better financed colleagues.

3. Finally, we need to address the deep level of confusion and general lack of understanding about both the CARP findings and this NPRM. It is our suggestion that the Copyright Office develop strategies to more proactively engage the constituencies who are impacted by these decisions – especially in light of the prohibitive investment of time and money that is necessary to fully engage in these proceedings. Again, the beauty of webcasting is its ability to be utilized by citizens and small organizations without having significant resources. Clearly, in this situation many stakeholders feel they have been underrepresented in the process and we encourage you to reach out to these communities to clarify both the proposals that exist and how citizens can best engage in the policy process.

Again, the Future of Music Coalition appreciates the work the Copyright Office and the CARP are doing to move these issues along, and we look forward to evaluating other comments in anticipation of submitting a detailed filing during the reply comments period.

Respectfully submitted,

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