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# Radio And Internet Newsletter

RAIN IS BROUGHT TO YOU TODAY BY:

Hanson Consulting  
Strategy and tactics for broadcasters & worldwide

September 10, 2002

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Daily news and commentary on the key issues involving radio and the Internet

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Win a free registration to  
**THE NAB RADIO SHOW**  
from RAIN!

We're looking forward to seeing you in Seattle if you'll be attending the conference. If you will, please join us for our **RAIN Reader Cocktail Party**, Friday 5-7p at the [Gordon Biersch Brewery Restaurant](#), which is in the Pacific Place shopping mall, just one block west of the main convention hotel, the Sheraton. As before, it'll be a cash bar, but we'll buy a big spread of appetizers - including gourmet pizzas, sushi, garlic fries, crab cakes, and more!



## Analyst rates radio "positive" as a cost-effective ad medium

Radio's advertising effectiveness may be its "ace in the hole" as it competes with other media over the next year, according to a Merrill Lynch analyst who is a fan of the cost-effectiveness of the medium.

**Radio & Records today quotes** Marc Nabi as saying, "Our expectation for increasing radio share is primarily based on our belief that the medium will be able to **steal share** from less cost-effective media."



**Nabi's company today** said it began its coverage of the radio, broadcast and outdoor advertising industries with a 'positive' rating, Reuters reports. Lynch says radio stocks are in a position to outperform other advertising media over the next year.



According to R&R, Nabi believes radio's "**cost-effectiveness**" will fetch it a

greater share of advertising dollars - over nine percent in the next ten years. He projects revenue will grow to \$35 billion over the next decade.



**Clear Channel, Cox, Cumulus, and Emmis** garnered "buy" ratings from Lynch, while Entercomm and Radio One were awarded "neutral" ratings.



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## RAIN metrics



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Recent weeklies:  
[Week of August 19](#)  
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We'll send you a brief daily summary of each day's stories with a clickable link to the RAIN home page.

First name: (req'd)

Last name: (req'd)

Station & market (company/school)

## RAIN analysis

In the long run, once we get past the current short-term glitch in the advertising economy, this is why radio **and Internet radio** will thrive:

Advertisers from local waterbed stores to Motel 6 to McDonalds will find, if they design a test and pay attention, that \$5,000 or \$500,000 spent on a radio schedule with decent creative and sufficient weight will give them **more bang for the buck** than almost any other medium they can buy! – KH



## RAIN is brought to you today by:

The LMiV debacle ([here](#)) is just another example of a venture that could have used a fresh perspective from a disinterested outsider.

**One option to consider:** RAIN's Kurt Hanson is now available to help you and/or your management team make intelligent decisions — and maybe help you save up to \$37 million!

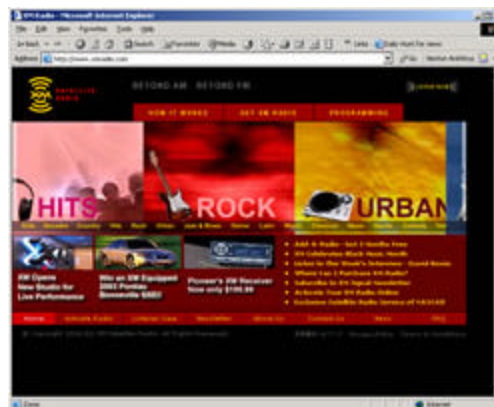
**With your initial consulting visit**, you can also schedule a **free two-hour seminar** for your staff and/or clients on the long-term future of Internet radio. Click [here](#) to learn more.

# Investors, new revenue streams may come to sat radio's rescue

**From Motley Fool:** "It's been a long time since [XM Satellite Radio](#) rock and rolled. True enough, it was in the spring of last year when Sea Launch successfully shot XM's geostationary satellites – aptly named Rock and Roll – into orbit. It was the start of a musical revolution. Literally. Figuratively. Not necessarily unequivocally..."

"**Fashionably late after botched timelines** and a management shake-up, [Sirius Satellite Radio](#) rolled out its competing service earlier this year. On Feb. 14, the upstart was introduced into four metropolitan markets..."

"**XM and Sirius have already**



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**combined** for an accumulated deficit of more than a billion dollars, and the bleeding of red ink continues. Can they duke it out or, at least, come together in the pursuit of big bucks?

**"Why not? Despite depressed share prices** and debt covenants...there's **muscle on reserve** that neither company is flexing right now.



**"Three years ago,** General Motors, Clear Channel Communications, and DIRECTV invested \$250 million collectively in XM...With its foot in Motown's car door, along with beefy investors with ample radio and satellite experience, XM became relevant. Sirius assembled a pretty nifty guest list as well, revving up factory-equipped car maker deals with Ford and DaimlerChrysler...

**"With its stock recently dipping below \$3** a share last month, XM's market cap has fallen to the sum of that \$250 million investment. Granted, the company sports a debt load twice

as large as that sum and a cash balance in embers. But the **connections** are there, and the consumers are **coming...**

**"If Sirius has any shot of making it** as an independent entity, it needs to build up its subscriber base, and that [might] mean a rate cut...Basic cable discovered **premium channels** and **pay-per-view** events, and that has helped prop up both the monthly bills and the annuitized value pegged on typical cable subscribers. Some analysts are assuming basic-subscriber fees and meager ad money are as good as it gets in satellite radio, but the revenue streams are already beginning to open up."



Read this entire Motley Fool column [here](#).



**Congratulations to the winners** of our giveaway of three registrations to this week's [NAB Radio Show](#) in Seattle! From our "advertiser" entries, we drew the name of **Denise Sutton** of WarpRadio.com. Our "broadcaster" winner is **Paul Schramski**, general manager of KDVS in Davis, CA. And our "webcaster" winner is **Derryl Harris**, owner/operator of WRPS/WebRadioPugetSound.

**Send a quick message to RAIN!**

**Have an opinion?** Drop us a note! (Or, to use your own e-mail software, click [here](#).)

Your e-mail address:

Your name (if not obvious from your e-mail address):

Kurt and Paul, this is deep background -- don't quote me!

Thanks!

This is Part 1 of 5 in a series...

### RAIN Guest Essay

# Royalty Voodoo Economics: How much is 0.02¢ worth?



BY JOEL WILLER  
for Radio And Internet Newsletter

**One problem in discussing** the new sound recording royalty fee is that it is much like debating the national budget. In either situation, a proposition might seem completely reasonable when viewed in the abstract, but **quite irrational** when applied to the real world.

**Such is the case** when considering the royalties adopted by the Librarian of Congress for Internet retransmissions by noncommercial broadcast stations operated by high school, college, and university students.

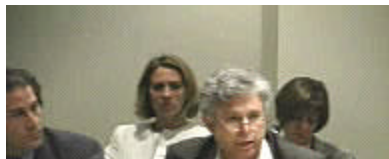
## "Devil in the details" of Librarian's \$500 minimum fee

**The Librarian adopted rates** for noncommercial broadcasters of 0.02¢ per song per listener, plus an 8.8% royalty for ephemeral (temporary) copies made to facilitate the Internet retransmissions. The same \$500 minimum fee applies to noncommercial broadcasters as was adopted for commercial webcasters, for each year or portion of a year.

**On the surface, these figures don't seem** to be that big of a deal. The devil, however, is in the details. At least one congressman, **Rep. Chris Shays** (R-VT), has responded to constituent letters with his belief that the Librarian's rates are fair to both webcasters and copyright owners. Like a good many others, Congressman Shays has been duped by the seemingly small figures in the Librarian's official report.

**The latest spin** from the **Recording Industry Association of America's SoundExchange** has accused webcasters of overstating the effect of the new royalty fees. Indeed, SoundExchange executive director **John Simson** (below right), in a recent Associated Press story, said he would be surprised if more than a few college stations exceeded the minimum annual fee.

**Actually, Simson's guess** is probably at least partially accurate. Most college broadcast



stations, characterized by small Web audiences, probably will initially pay the minimum fee for their retransmissions, but are likely to see these fees grow with their Internet audiences. A college webcaster without a broadcast station license, on the other hand, might easily exceed the minimum annual fee because these stations will pay the same per-performance royalty as commercial webcasters, 0.07¢ per song per listener.

## "Minimum-rate" webcasters will pay a higher effective royalty rate

**Simson's comment was meant to trivialize** the fees to be paid by college webcasters. What his statement ignores, however, is that any webcaster assessed the minimum fee is paying a per-performance fee **effectively much higher** than the stated nominal rate. The result is that most noncommercial college webcasters will be paying per-performance royalties much higher than their commercial counterparts.

**Using the University of Louisiana** at Monroe's **KXUL** as an example, we can easily see how the Librarian's rates are regressive. For the 2001 calendar year, noncommercial radio station KXUL experienced a total of 40,507.69 domestic



Aggregate Tuning Hours by listeners connecting to its Web streams. Using the performance estimation scheme allowed by the rate determination figure translates into approximately 486,092 total performances for the

year. The performance and ephemeral copy royalties for this amount of noncommercial streaming totals \$105.78. Because KXUL will be required to pay the minimum fee, the station will pay an effective per-performance rate for 2001 of 0.09381¢, or **469%** of the nominal noncommercial rate and 134% of the nominal commercial rate.

**This example turns from merely unreasonable** to the downright absurd when the KXUL figures for 1998 are analyzed. The new performance and ephemeral copy royalties apply retroactively to streaming after October 28th of that year, less than four months after KXUL began its streaming and at a time when Internet streaming in general was still very young. KXUL's performance and ephemeral copy royalty liability for the last 65 days of the year 1998 totals just \$3.71, yet the station apparently will be required to pay the "minimum fee of \$500 for each calendar year, or part thereof, in which it makes such transmissions or recordings" [37 CFR § 261.3(e)(1)]. The station's



effective royalty for the calendar year 1998 will therefore be 2.672¢ per song performed, or **13,359%** of the nominal statutory rate adopted by the Librarian for retransmissions by noncommercial radio stations, or 3,817% of the nominal statutory rate adopted for all commercial webcasters.

## Analysis shows royalty fees burdensome to educational webcasters

**Unless the Librarian or the courts** step in to change the course of events, on October 20, 2002 radio station KXUL will have to write a check to SoundExchange for all past performances between October 28, 1998 and August 31, 2002. Because of the effect of the minimum fee, the amount on that check will evidently have to be \$2,500.00, although KXUL's performance and ephemeral copy royalties for the period total only \$214.86.

**Clearly, the royalty fees KXUL will pay** for its Internet retransmissions are much greater than the 0.02¢ rate commonly referenced. This example highlights the burden similarly imposed on all other small-scale noncommercial webcasters. SoundExchange would perpetuate a myth that the weight of the royalties on high school, college, and university webcasters is not great. The analysis of concrete applied examples proves otherwise.

## Librarian's justification for minimum

## fee ignores crucial factors

The amount of the minimum fee was challenged in a reply petition by the single noncommercial broadcast group participating in the CARP process. In response, the Librarian's report states, "[T]he Panel set the rate at \$500 to cover administrative costs to the copyright owners and access to the sound recordings. It was not arbitrary to impose a minimum fee on the Non-CPB, noncommercial broadcasters that merely covers costs for these rudimentary purposes..." The Librarian's conclusion ignores several key factors that suggest this amount should be modified for noncommercial webcasters:

(1.) This determination leads to the illogical result that a great number of noncommercial stations will pay **effective** rates much higher than commercial entities.

(2.) The \$500 minimum amount was derived from a negotiated agreement between the RIAA and a commercial webcaster. Even under the flawed "willing buyer/willing seller" standard dictated by Congress for the CARP, this amount cannot be considered **indicative** of what a willing noncommercial buyer might pay. As established in testimony before the CARP, in the marketplace noncommercial entities historically pay fees much lower than commercial entities.

(3.) SoundExchange's acknowledgment that a great many noncommercial stations will be subject to the minimum fee supports the contention that this amount is much higher than what would have been accepted by a **willing buyer**.

(4.) With a significant portion of noncommercial entities paying the minimum fee, the result makes the nominal rate purely **illusory**.

(5.) The \$500 minimum amount was agreed to in a situation where a commercial service was reporting census data on all performances. Although final recordkeeping rules have yet to be released by the Copyright Office, indications are that only a sampling of performances will be required. With **less data** to process, administrative costs should be lower, and the minimum fee should therefore be comparatively less than the referenced negotiated agreement.

(6.) The negotiated agreement required more information to be reported for each performance than the Copyright Office has indicated will be required in the pending recordkeeping rules. Again, less data to be processed suggests the minimum fee needs to be lowered to reflect reduced administrative costs.

(7.) The Librarian has already adopted rules allowing for the estimation of the number of performances through the entire period covered by this rate determination. As with the above points, this resulting reduction of data to be processed should lead to a commensurate reduction in the minimum fee.

*Joel Willer is an Assistant Professor of Mass Communications at the University of Louisiana at Monroe and general manager of the school's radio station KXUL. There will be four more installments to this series.*

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## Silenced by royalties

Here is a growing list of webcasters who, because they don't feel they can manage webcasting royalties in a viable business, have decided that it's in their best interests to silence their streams. (We thank them for their hard work and dedication to their audiences and the industry, and wish them luck in their future endeavors...)

<a href="#">247PolkaHeaven.com</a>	<a href="#">All80s.com</a>	<a href="#">AudioCandy.com</a>
<a href="#">BlueMars.org</a>	<a href="#">BrazilCast 1 &amp; 2</a>	<a href="#">Celtic Heritage Webradio</a>
Chez Whitey	<a href="#">CIRNH.com</a>	<a href="#">Citadel</a> stations
<a href="#">Clownmask Radio</a>	Entercom stations	Gleiser Communications
<a href="#">Good Time Oldies Radio</a>	Greater Media stations	<a href="#">GrrlRadio</a>
<a href="#">HitRadio.biz</a>	<a href="#">Hot Hit Radio</a>	<a href="#">IdahosCast.com</a>
<a href="#">Ithaca College Radio</a>	<a href="#">Jones College Radio</a>	<a href="#">KBCS</a> /Bellevue
<a href="#">KBVR</a> /Corvallis	<a href="#">KDFC</a> /San Francisco	<a href="#">KEDM</a> /Monroe
<a href="#">KEOM</a> /Mesquite	<a href="#">KETR</a> /Commerce	<a href="#">KGRK</a> /Cedar Falls
<a href="#">KHUM</a> /Humboldt. Co.	<a href="#">KKDV</a> /San Francisco	<a href="#">KKNX</a> /Eugene
<a href="#">KKNG</a> /Oklahoma City	<a href="#">KKPT</a> /Little Rock	<a href="#">KKUP</a> /Cupertino
<a href="#">KMGO</a> /Centerville	<a href="#">KNHC</a> /Seattle	<a href="#">KOIT</a> /San Francisco
<a href="#">KOKE</a> /Oklahoma City	<a href="#">KOMA</a> /Oklahoma City	<a href="#">KPIG</a> /Freedom
<a href="#">KRCL</a> /Salt Lake City	<a href="#">KROK</a> /DeRidder	<a href="#">KTPW</a> /Dallas
<a href="#">KTRS</a> /St. Louis	<a href="#">KTXN</a> /Victoria	<a href="#">KVVP</a> /Leesville
KUMX/South Fort Polk	<a href="#">KWXY</a> /Cathedral City	Lotus Radio stations
Maranatha stations	McClure stations	Midwest Family stations
<a href="#">Minion Radio</a>	<a href="#">MonkeyRadio.org</a>	<a href="#">MoreMusicRadio.net</a>
MYNDFK.com	<a href="#">NetRockRadio.com</a>	NextMedia stations
<a href="#">OnTheCorner.fm</a>	<a href="#">Perkigoth.com</a>	<a href="#">PissMonkey</a>
<a href="#">Powerrocks.com</a>	<a href="#">Progrock.com</a>	<a href="#">Psychedelic Time Warp</a>
<a href="#">Pulverradio.com</a>	<a href="#">RadioAmerica</a>	<a href="#">RadioBoston.com</a>
<a href="#">RadioCentral.com</a>	RadioMAX	<a href="#">Radio Free Akron</a>
<a href="#">Radio Free BD</a>	<a href="#">Radio Free Tiny Pineapple</a>	<a href="#">Radio Isla Negra</a>
ReggaeTrain.com	Renda Broadcasting	<a href="#">RKNA: Aural Arcana</a>

<a href="#">SavageRockRadio.com</a>	<a href="#">Shwango Radio</a>	Simmons Media stations
<a href="#">SomaFM.com</a>	<a href="#">StarDogRadio.com</a>	<a href="#">TagsTrance.com</a>
<a href="#">The City Radio</a>	<a href="#">The Lost 45s</a>	The Radio People stations
<a href="#">therockfm.com</a>	<a href="#">TheVoice</a>	<a href="#">The Zoo</a>
<a href="#">UCLARadio.com</a>	<a href="#">WAAF</a> /Worcester	Waitt Radio Network
<a href="#">WAME</a> /Statesville	<a href="#">WBEB</a> /Philadelphia	<a href="#">WCKW</a> /La Place
<a href="#">WDCE</a> /Richmond	<a href="#">WDWN</a> /Auburn	WellsRadio.net
<a href="#">WELW</a> /Cleveland	<a href="#">WEST</a> /Easton	<a href="#">WEZS</a> /Laconia
<a href="#">WGQR</a> /Elizabethtown	<a href="#">WIYY</a> /Baltimore	<a href="#">WJTL</a> /Lancaster
<a href="#">WLUP</a> /Chicago	<a href="#">WMHB</a> /Waterville	<a href="#">WMMR</a> /Philadelphia
<a href="#">WOVRRadio.com</a>	<a href="#">WRLT</a> /Nashville	<a href="#">WRSI</a> /Greenfield
<a href="#">WRUR</a> /Rochester	<a href="#">WRVG</a> /Georgetown	<a href="#">WSBE</a> /Clemson
<a href="#">WSWI</a> /Evansville	<a href="#">WUVT</a> /Blacksburg	<a href="#">WVKR</a> /Poughkeepsie
<a href="#">WXRV</a> /Haverhill	<a href="#">WYYB</a> /Phoenix	<a href="#">WZBC</a> /Newton
<a href="#">WZIP</a> /Akron	<a href="#">WZMR</a> /Albany	Yahoo! Radio stations

Have we missed others? Use the feedback form above or e-mail us [here](#).

### Other public stations now off line

This is from the [SOS: Save Our Streams](#) website, which focuses the struggle against thewebcasting royalty rates as they pertain to independent educational and noncommercial stations.

KAPU-CA; KSDS-CA; KTAI-TX; KTSW-TX; KWJC-MO; KXCI-AZ; KXRJ-AR; WEBR-VA; WERS-MA; WEVL-TN; WMHW-MI; WMUA-MA; WNYU-NY; WONB-OH; WPTS-PA; WRMC-VT; WSRN-PA; WSTB-OH; WSUM-WI; WSUW-WI; WUTK-TN; WXOU-MI

## Upcoming conferences

Sep. 12-14, 2002	<a href="#">NAB Radio Show 2002</a> : Seattle, WA
Sep. 26-Oct. 6, 2002	<a href="#">Museum of Television &amp; Radio 8th Annual Festival</a> : New York, NY
Oct. 1-4, 2002	<a href="#">Streaming Media East</a> : New York, NY
Oct. 20-22, 2002	<a href="#">NAB European Radio Conference</a> : Prague, Czech Republic
Oct. 30-Nov. 2, 2002	<a href="#">CMJ Music Marathon 2002</a> : New York, NY

Need advice on Internet radio-related issues?



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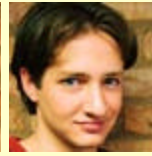
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