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# Radio And Internet Newsletter

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Strategy and tactics for broadcasters & worldwide

September 11, 2002

PREV.

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

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**We hope to see you** this week in Seattle for the NAB. Please join us for our **RAIN Reader Cocktail Party**, Friday 5-7p at the **Gordon Biersch Brewery Restaurant**. It's in the Pacific Place shopping mall, just one block west of the main convention hotel, the Sheraton (click the link for directions). Hope you can make it!



## Inslee to mail colleagues daily asking support of Net radio bill

BY PAUL MALONEY

**According to a press release** from the office of U.S. **Rep. Jay Inslee** (D-WA, right), the Congressman is urging his colleagues to support the legislation he crafted to save the Internet radio industry by sending a letter to Members of Congress **every day** until October 21.

**Inslee, along with Reps. George Nethercutt** (R-WA) and **Rick Boucher** (D-VA), in July introduced the **Internet Radio Fairness Act** (IRFA, see **RAIN** coverage [here](#)). The legislation would provide various measures of relief for **smaller webcasters** who fear their operations will be forced to shut down when the Librarian of Congress determined royalties for the music they play are due.

**According to the release**, the bill is now cosponsored by 23 other members of Congress. However, at least one webcaster who has been involved in meetings with Representatives says that figure is dated – and the bill now has **50** signatures!

**The IFRA, if passed, would exempt "small business"** webcasters (those that gross under \$6 million per year) from the Librarian's



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determination of sound recording royalties of \$0.0007 (\$0.0002 for noncommercial webcasters not part of the Corporation for Public Broadcasting) per "performance" plus 8.8% for ephemeral fees, with a \$500 minimum. (This would not absolve webcasters of royalties – the royalties due for the period covered by the Librarian's decision would be determined by the **next** copyright arbitration.)

The measure would also change the **standard** arbitrators try to meet in determining a royalty to recommend to the Librarian. Instead of a "**willing buyer/willing seller**" standard used by the Copyright Arbitration Royalty Panel, the bill calls for the use of the "traditional" standard enacted by the 1976 Copyright Act.

Further, the **ephemeral charge** would be **eliminated**, small businesses would not be required to pay to participate in future CARPs, and future CARPs would need to comply with the Regulatory Flexibility Act requiring the consideration of a new royalty rate's **impact** on small business.

**Librarian of Congress** Dr. James Billington is pictured at right.

The **text of the letter**, signed by Inslee, Nethercutt, and Boucher, is below. You can read a copy of the "background and legislation summary document" [here](#). (Microsoft Word format).



## SAVE INTERNET RADIO

Cosponsor the Internet Radio Fairness Act

Dear Colleague:

Today, millions of consumers and thousands of artists are enjoying the benefits of Internet radio, and several thousand webcasters are offering listeners diverse musical genres and an extraordinary range of artists that do not get radio airplay. Unfortunately, however, new royalty rates set to go into effect October 21st are threatening the future of this industry.

In the middle and late 1990's, Congress passed legislation intended to promote both the growth of Internet radio and the welfare of music creators. Yet problems developed around the new royalty that Congress required Internet radio to pay recording companies and artists (a royalty that traditional terrestrial radio stations do NOT have to pay). The new royalty fees are so high that they will put hundreds of small businesses and noncommercial webcasters out of business, and force terrestrial radio stations that "simulcast" to shut down their Internet streams thereby eliminating royalties that would otherwise flow to artists and copyright holders.

**Please see the attached background and legislation summary document.**

In order to avoid a train-wreck in the Internet radio industry, we have introduced the Internet Radio Fairness Act (H.R. 5285). This bill will help avoid decimation of the Internet radio companies, while ensuring a fair royalty return for artists and labels.

If you would like to cosponsor this legislation, please contact Brian Bonlender (Inslee 5-6311), Rob Neal (Nethercutt 5-2006), or Johanna Mikes (Boucher 5-3861).

Sincerely,  
JAY INSLEE (D-WA)  
GEORGE NETHERCUTT (R-WA)  
RICK BOUCHER (D-WA)

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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.

## Clear Channel Sept. 11 audio on website for industry, public

BY PAUL MALONEY

The Clear Channel broadcast group is using the Internet to distribute audio content for today's September 11 commemorative programming to their over 1200 stations. A company called [Andromeda](#) is providing the technology.



On a page called "Tributes and Triumph: America's Day of Remembrance" ([here](#)), [Clear Channel](#)



has posted well over a hundred MP3 audio files of actualities, news bites, and statements and speeches from those involved in the events and reactions to the terrorist attacks on our country one year ago. The files can be "streamed" for auditioning purposes, and then downloaded by the radio stations

for on-air use.

**Clear Channel produced** a special two-minute audio montage honoring heroes and victim's of last September 11 to air today. A recorded message from President Bush followed the airing of the montage on Clear Channel stations, and the company made both recordings available to the radio industry and public.

**Andromeda provides a cross-platform tool** to serve audio files (as well as other types) for corporate, public, and private use. You can see the features of their services [here](#).



# 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!

Submit

Thanks!

This is Part 2 of 5 in a series...

## RAIN Guest Essay

# Royalty Voodoo Economics: "The artists must be paid"



BY JOEL WILLER

for Radio And Internet Newsletter

**The Recording Industry Association of America's**

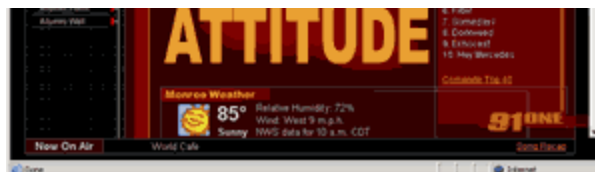
SoundExchange has continually attempted to use the "little guy" image of recording artists as a **human front** for the multinational corporations represented by the RIAA membership.

RIAA's **fill-in-the-blank spokesperson** of the day will inevitably weave into any sound bite reference to artists' deferred royalty compensation.

In the case of college radio, RIAA wonks have even argued that excruciatingly detailed recordkeeping is mandatory to ensure obscure artists are fairly compensated for airplay in eclectic formats.

## Just how much money for artists are we really talking about?

In the first part of this series ([here](#)) I accepted the general notion that many high school, college, and university radio stations will pay the **minimum** annual performance royalty fee for their Internet retransmissions. Using that assumption as a basis, let's look at some real numbers. As with the earlier installment of this series, I'll use actual



figures from the University of Louisiana at Monroe's noncommercial radio station [KXUL](#) to make my point.

**In contrast with many college radio stations**, KXUL makes comparatively extensive use of computerized tools in its programming. This clarification is offered to head off any false conclusion that information available to KXUL is easily obtainable by the majority of college radio stations. Before generalizing this analysis to other college radio stations, I must also point out that music rotation on KXUL probably includes a list of songs much smaller than is typical of many college radio stations. As a result, the figures below will likely **overstate** the amounts of individual artist compensation across the universe of college radio stations.

## "Would you like to supersize that?"

**An advantage provided by KXUL's resources** is that the station can readily determine the frequency with which a particular song has been played on air. A review of historical airplay for one week reveals that the average title is performed by KXUL 1.17 times each day. Of course, some songs are played more often than others, and many songs will be played for only a portion of each year, but this number represents a fair estimation of the high side of "average" on KXUL. Comparing this number to the total

CMJ NMR Issue - 781					
Top 200					
LW	LW	2W	PK	WKS	ARTIST + TITLE
1	2	5	1	4	SLEATER-KINNEY One Beat
2	1	2	1	5	SPOON Kill The Moonlight
3	5	8	3	5	INTERPOL Turn On The Bright Lights
4	6	21	4	3	QUEENS OF THE STONE AGE Songs For The Deaf
5	3	1	1	11	FLAMING LIPS Yoshimi Battles The Pink Robots
6	11	55	6	3	COLDPLAY A Rush Of Blood To The Head
7	4	3	1	13	SONIC YOUTH Murray Street
8	9	7	7	9	SPARTA Wiretap Scars
9	54	-	9	2	LOW Trust
10	7	4	3	9	BETH ORTON Daybreaker

number of daily performances, using the Librarian of Congress' estimation method, shows that the "average" song represents 0.406% of KXUL's airplay.

**Assume for a moment** that a benevolent [SoundExchange](#) does not withhold administrative costs from the \$500 minimum annual royalty fee collected from KXUL. In such case, \$2.03 of the total royalty would be

generated annually by the "average" KXUL song. Of that amount, \$1.02 (50%) would be distributed to the recording label, **91¢** (45%) to the featured artist, and **10¢** (5%) collectively to the non-featured musicians on the recording. In actuality, these figures would each be reduced by the amount of SoundExchange's administrative costs.

**The annual royalty KXUL will pay a featured artist** for the station's "average" recording could be used to **supersize** a fast food meal. What happens when KXUL's fees are combined with all other college stations?

(CONTINUED BELOW)



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(FROM ABOVE)

**It is difficult to accurately estimate** the total number of college webcasters nationwide. In initial comments filed in the [Copyright Office's](#) recordkeeping proceeding, the [Intercollegiate Broadcasting System](#) stated that 243 of the organization's 773 member stations report webcasting. IBS estimates two hundred more have been deterred from webcasting by fear of copyright consequences. Using these figures as a basis, I'll generously estimate a total of 500 college webcasters.



**Multiplying KXUL's royalty figures** by the estimated universe of college webcasters results in a nationwide annual total of just **\$456.75** for the featured artist for the "average" recording receiving college radio airplay. The same calculation predicts **\$50.75** collectively for the non-featured musicians on the "average" recording.

**However, these estimates must be adjusted downward** to reflect 1) college radio playlists are generally more **diverse** than is characterized by KXUL, 2) stations paying the minimum annual fee rather than the actual royalty liability **inflate** the total, 3) actual royalties distributed will be reduced by SoundExchange **administrative costs**, and 4) those recordings that, unlike the "average," receive only a few spins on a station or stations.

### It can't be about the money

**Use of KXUL's actual performance royalty liability**, rather than the minimum annual fee, would drastically reduce these estimates. Applying the same modeling as above to KXUL's actual 2001 annual streaming traffic, generalized to all college radio stations, would net an annual national total of just \$96.63 for the featured artist on the "average" recording. Non-featured musicians on the same recording would collectively receive just \$10.74.

**We can therefore conclude** that a featured artist on a recording receiving substantial nationwide airplay by college webcasters will annually receive **less than a buck**,



perhaps much less, per station from the new royalties. Peripheral featured artists' royalties will amount to just pennies per station.

#### **If artists knew the realistic royalty amounts**

represented by college radio retransmissions via the Internet, rather than the RIAA

hype, which do you imagine they would chose: 1) to forego negligible royalty payments to ensure college webcasters can survive, or 2) lose the promotional benefit from airplay on an estimated 500 college Web stations nationwide?

**Given the trifling level of royalty compensation** from college webcasters flowing to the labels for each recording, can the generation of new revenue be the **true motivation** driving the RIAA?

*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 three more installments to this series. Read Part 1 [here](#)...*

# 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="http://247PolkaHeaven.com">247PolkaHeaven.com</a>	<a href="http://All80s.com">All80s.com</a>	<a href="http://AudioCandy.com">AudioCandy.com</a>
<a href="http://BlueMars.org">BlueMars.org</a>	<a href="http://BrazilCast_1_2">BrazilCast 1 &amp; 2</a>	<a href="http://CelticHeritageWebradio">Celtic Heritage Webradio</a>
Chez Whitey	<a href="http://CIRNH.com">CIRNH.com</a>	<a href="http://Citadel">Citadel</a> stations
<a href="http://ClownmaskRadio">Clownmask Radio</a>	Entercom stations	Glaiser Communications
<a href="http://GoodTimeOldiesRadio">Good Time Oldies Radio</a>	Greater Media stations	<a href="http://GrrlRadio">GrrlRadio</a>
<a href="http://HitRadio.biz">HitRadio.biz</a>	<a href="http://HotHitRadio">Hot Hit Radio</a>	<a href="http://IdahosCast.com">IdahosCast.com</a>
<a href="http://IthacaCollegeRadio">Ithaca College Radio</a>	<a href="http://JonesCollegeRadio">Jones College Radio</a>	<a href="http://KBCS">KBCS</a> /Bellevue
<a href="http://KBVR">KBVR</a> /Corvallis	<a href="http://KDFC">KDFC</a> /San Francisco	<a href="http://KEDM">KEDM</a> /Monroe
<a href="http://KEOM">KEOM</a> /Mesquite	<a href="http://KETR">KETR</a> /Commerce	<a href="http://KGRK">KGRK</a> /Cedar Falls
<a href="http://KHUM">KHUM</a> /Humboldt. Co.	<a href="http://KKDV">KKDV</a> /San Francisco	<a href="http://KKNX">KKNX</a> /Eugene
<a href="http://KKNG">KKNG</a> /Oklahoma City	<a href="http://KKPT">KKPT</a> /Little Rock	<a href="http://KKUP">KKUP</a> /Cupertino
<a href="http://KMGO">KMGO</a> /Centerville	<a href="http://KNHC">KNHC</a> /Seattle	<a href="http://KOIT">KOIT</a> /San Francisco
<a href="http://KOKE">KOKE</a> /Oklahoma City	<a href="http://KOMA">KOMA</a> /Oklahoma City	<a href="http://KPIG">KPIG</a> /Freedom
<a href="http://KRCL">KRCL</a> /Salt Lake City	<a href="http://KROK">KROK</a> /DeRidder	<a href="http://KTPW">KTPW</a> /Dallas
<a href="http://KTRS">KTRS</a> /St. Louis	<a href="http://KTXN">KTXN</a> /Victoria	<a href="http://KVVP">KVVP</a> /Leesville
KUMX/South Fort Polk	<a href="http://KWXY">KWXY</a> /Cathedral City	Lotus Radio stations
Maranatha stations	McClure stations	Midwest Family stations
<a href="http://MinionRadio">Minion Radio</a>	<a href="http://MonkeyRadio.org">MonkeyRadio.org</a>	<a href="http://MoreMusicRadio.net">MoreMusicRadio.net</a>
MYNDFK.com	<a href="http://NetRockRadio.com">NetRockRadio.com</a>	NextMedia stations
<a href="http://OnTheCorner.fm">OnTheCorner.fm</a>	<a href="http://Perkigoth.com">Perkigoth.com</a>	<a href="http://PissMonkey">PissMonkey</a>
<a href="http://Powerrocks.com">Powerrocks.com</a>	<a href="http://Progrock.com">Progrock.com</a>	<a href="http://PsychedelicTimeWarp">Psychedelic Time Warp</a>
<a href="http://Pulverradio.com">Pulverradio.com</a>	<a href="http://RadioAmerica">RadioAmerica</a>	<a href="http://RadioBoston.com">RadioBoston.com</a>
<a href="http://RadioCentral.com">RadioCentral.com</a>	RadioMAX	<a href="http://RadioFreeAkron">Radio Free Akron</a>
<a href="http://RadioFreeBD">Radio Free BD</a>	<a href="http://RadioFreeTinyPineapple">Radio Free Tiny Pineapple</a>	<a href="http://RadioIslaNegra">Radio Isla Negra</a>
ReggaeTrain.com	Renda Broadcasting	<a href="http://RKNA">RKNA: Aural Arcana</a>
<a href="http://SavageRockRadio.com">SavageRockRadio.com</a>	<a href="http://ShwangoRadio">Shwango Radio</a>	Simmons Media stations
<a href="http://SomaFM.com">SomaFM.com</a>	<a href="http://StarDogRadio.com">StarDogRadio.com</a>	<a href="http://TagsTrance.com">TagsTrance.com</a>
<a href="http://TheCityRadio">The City Radio</a>	<a href="http://TheLost45s">The Lost 45s</a>	The Radio People stations
<a href="http://therockfm.com">therockfm.com</a>	<a href="http://TheVoice">TheVoice</a>	<a href="http://TheZoo">The Zoo</a>
<a href="http://UCLARadio.com">UCLARadio.com</a>	<a href="http://WAAF">WAAF</a> /Worcester	Waitt Radio Network
<a href="http://WAME">WAME</a> /Statesville	<a href="http://WBEB">WBEB</a> /Philadelphia	<a href="http://WCKW">WCKW</a> /La Place
<a href="http://WDCE">WDCE</a> /Richmond	<a href="http://WDWN">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="#">WOVRadio.com</a>	<a href="#">WRLT</a> /Nashville	<a href="#">WRSI</a> /Greenfield
<a href="#">WRUR</a> /Rochester	<a href="#">WRVG</a> /Georgetown	<a href="#">WSBF</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	<b>Yahoo! Radio</b> 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 the webcasting 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

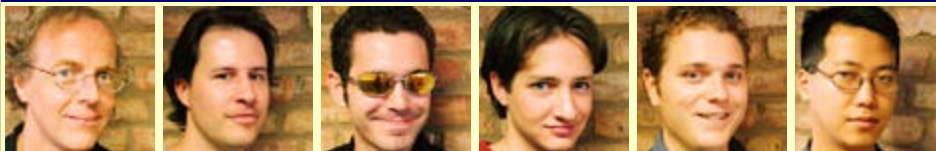
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