



June 1, 2009

U.S. House of Representatives/U.S. Senate

Dear Representative/Senator,

We are writing to express our concerns as students, faculty and staff members involved with student-operated noncommercial educational radio stations across the nation.

Lobbyists for large recording companies are encouraging Congress to pass a new performance fee on local radio stations, including noncommercial educational radio stations operated by students of colleges, universities and high schools. Some of the information that is being spread around Capitol Hill about how the proposed new law would impact student-operated noncommercial stations is misleading, so we believe it is important that you hear directly from us.

We urge you to resist the proposed new performance fee by cosponsoring H. Con. Res. 49 and S. Con. Res. 14, and by opposing H.R. 848 and S. 379.

One oft-cited straw-man argument made by recording industry lobbyists is that in H.R. 848 and S. 379, the bills that propose the new fee, educational institutions would fall within a special accommodation. That “special accommodation” is between a \$500 and \$1,000 annual fee applicable to each noncommercial station. In the context of record industry profits, company executives might believe their proposal to be reasonably low. But in the real world, those proposed fees represent large portions of annual budgets for student-operated radio stations.

Particularly in the present economic times — as students, their families and educational institutions face sharply increasing fiscal pressures — now is not the time to impose new fees on our small stations principally to benefit foreign-owned recording labels. The record industry executives clearly do not understand student-operated radio, which is obvious in the proposed legislation.

Recording industry lobbyists frequently attempt to cloak their proposed new fee in the human element of performing artists, with the argument that artists need compensation. However, recording industry lobbyists neglect to mention the abundant compensation artists already receive, via profuse promotion, from noncommercial educational broadcasters. The dynamic between student-operated radio stations and artists is very

different than the dynamic between commercial stations and mainstream artists. Further, it is the recording labels — not artists — that will receive the single largest share of the proposed new fees.

The hallmark of student-operated radio is a passion for discovering and supporting up-and-coming artists. Student-operated radio has helped launch the careers of thousands of cutting-edge artists through promotion, music sales, concert tickets, merchandise giveaways and more. Recording artists have no greater friends than student-operated radio stations.

Artists clamor for airplay on educational radio stations in a very aggressive manner, suggesting that airplay alone is of great relative value for the fledgling artists that are the mainstay of educational radio. Artists and record labels are already highly compensated for the use of their music through the immense promotion that student-operated radio presently collectively provides. Any claim that artists and record labels are not now being compensated for the performance of their material is disingenuous, and upsetting the longstanding mutually beneficial relationship between artists and educational radio stations could ultimately harm artists.

Accompanying the proposed new fees are other serious threats to student-operated radio stations: The proposed legislation would impose expensive administrative burdens on stations and would impinge on the creative aspects of educational stations.

The proposed new fees would be implemented by amending an existing copyright statute now applicable to certain digital services such as webcasting. Under existing law, the Copyright Royalty Board (“CRB”) must establish precise administrative regulations. Without belaboring the details, contentious proceedings to achieve that mandate have been ongoing since 2002, and the onerous requirements already adopted by the CRB have had the unfortunate effect of causing some student-operated services subject to the statute to cease operations due to disproportionate recordkeeping costs. As a result, we can foresee that should Congress adopt the proposed legislation to extend the fees to student-operated radio stations, those stations could also be imperiled by the overreaching regulatory burdens. Even now, the royalty judges are contemplating yet more oppressive recordkeeping regulations, so the total impact of a new proposed fee must not be overlooked.

Outdated content restrictions in the existing statute — adopted a decade ago in the infancy of the Internet, in an unsuccessful attempt to thwart technology not even developed at the time — could be extended to student-operated radio stations through the careless attempt to bootstrap existing law to create this new fee. By way of example, 17 U.S.C. § 114(j)(13) would presently prohibit the webcasting of a program-length feature of a recording artist’s music to mark his or her passing; the proposed legislation in H.R. 848 and S. 379 could extend this unreasonable prohibition to all broadcast outlets, including noncommercial educational stations. Congress must reject this proposal that will have negative effects on the students in educational radio.

Indeed, in an ongoing notice of inquiry, the CRB is contemplating enacting limitations on what they characterize as “simply as a matter of creative choice.” Creative choice is not simple; it is also not something the CRB should even consider regulating. Copyright regulations should not be about abridging creative choices.

The issues surrounding the proposed new fee are complicated and many. Because of the significant impact that a new performance fee, recordkeeping regulations and content restrictions will have on student-operated radio, we ask that you please cosponsor H. Con. Res. 49 and S. Con. Res. 14. and oppose H.R. 848 and S. 379.

Please feel free to contact our representatives at 713-348-2935 or [copyright@askcbi.org](mailto:copyright@askcbi.org).

Sincerely,



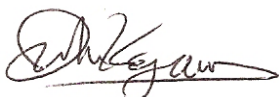
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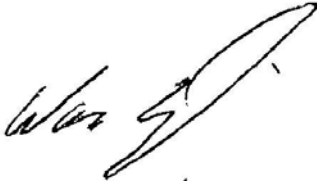
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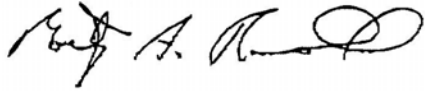
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General Manager  
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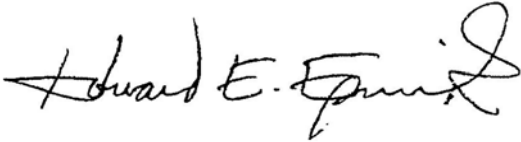
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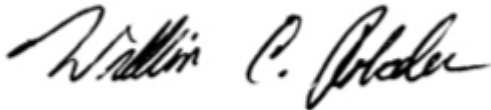
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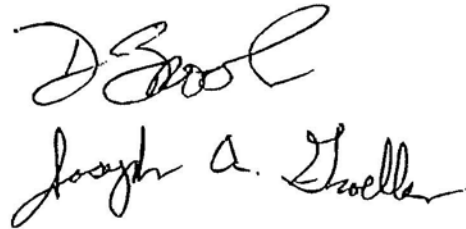

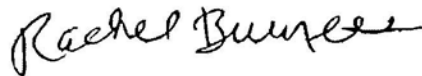
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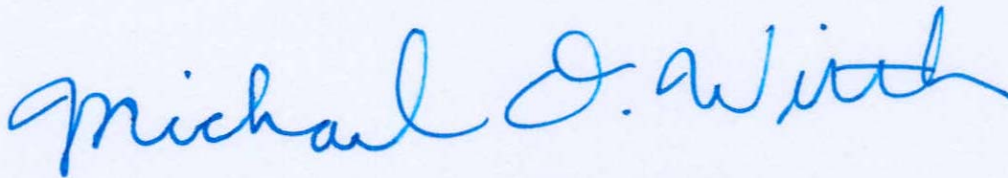
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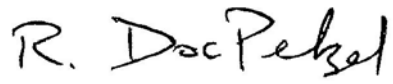
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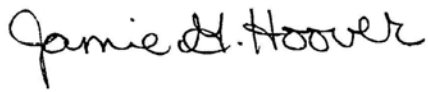
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A handwritten signature in black ink that reads "R. Doc Peltzel". The signature is written in a cursive, slightly slanted style.

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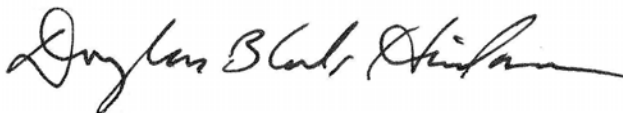


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A handwritten signature in black ink, appearing to read 'J. Willer', with a large, sweeping initial 'J'.

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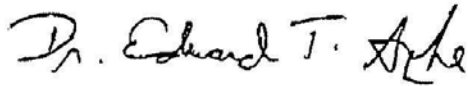
A handwritten signature in black ink, appearing to read 'Frank J. Hogan', with a large, sweeping initial 'F'.

Frank J. Hogan  
General Manager  
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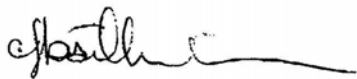
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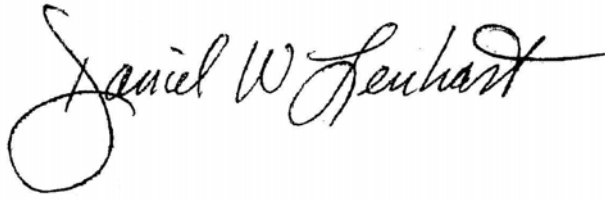
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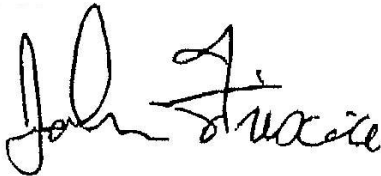
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A handwritten signature in black ink that reads "Daniel W. Lenhart". The signature is fluid and cursive, with a large loop at the beginning of the first name.

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A handwritten signature in black ink that reads "Bryce McNeil". The signature is cursive and somewhat stylized, with a long, sweeping line at the end.

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A handwritten signature in black ink that reads "John Friscia". The signature is cursive and somewhat stylized, with a large loop at the beginning of the first name.

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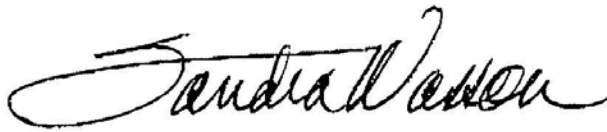
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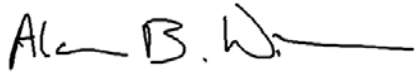
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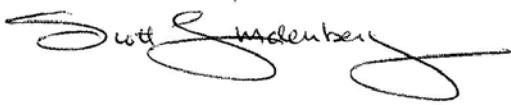


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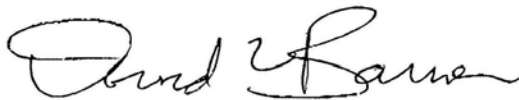




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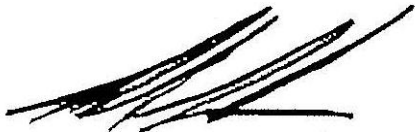
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*Misha Laurents*

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A handwritten signature in black ink, appearing to read "Brent M. Rubin". The signature is fluid and cursive, with the first name "Brent" and last name "Rubin" clearly distinguishable.

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