

Copyright Arbitration Royalty Panel (CARP)  
P.O. Box 70977  
Southwest Station  
Washington, DC 20024-0977

March 5, 2002

DOCKET NO.
RM 2002.1
COMMENT NO. <u>9</u>

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GENERAL COUNSEL  
OF COPYRIGHT

Re: Notice of proposed rulemaking  
37 CFR Part 201 [Docket No. RM 2002]  
Notice and Record Keeping for Use of Sound Recordings Under Statutory License

Panel Members,

I am extremely dismayed by what you are proposing in Section 201.36e, subsection 3, in the tentative regulations specified above - the unprecedented use of Internet technology to track private information of broadcast listeners. The following quote further articulates my feelings on this subject:

"I am commenting as a member of the public who purchases sound recordings, and who uses the internet and listens to "internet radio" or an "AM/FM Webcast" as the proposed regulations define it. I listen to internet transmission of sound recordings, as well as other material; and I listen to broadcast radio.

Webcasts offer me a chance to listen to music that I cannot hear on regular radio. I am concerned that anything that increases the cost of webcasts will ultimately restrict what I can hear from U.S. based webcasts. However, my main concern is my privacy.

Sec. 201.36(e)(3) would call for Services (other than preexisting subscription services) to maintain and report a "Listener's Log" including detailed information, user login and logout time, location, etc. and a "unique user identifier". In other words, this would require the covered Services to collect data on the listening habits of each individual user and to send those reports to Collectives or to post those reports online. This requirement for a collecting and reporting a "unique user identifier" with other data appears to be an attempt to collect data on individual personal listening habits -- including my personal listening habits.

This is an invasion of individual privacy and the entire subsection 201.36(e)(3) should be stricken. The optional allowance for a "click wrap" agreement in Sec. 201.36(d)(2) is no help. First, it is not mandatory. Second, there is no such requirement applied to Collectives. Third, and most important, it provides no assurance of privacy directly to any individual user, whose information would be collected and passed about.

No individual user would have any assurance that such information would not be misused for email or regular mail junk mailings, or sold to others for other purposes not authorized by the individual. "

As a U.S. citizen who values his fundamental right to privacy, and as avid (paying) music consumer, I implore you to re-consider these proposals.

Sincerely,  
Carl Bruce

A handwritten signature in cursive script that reads "Carl Bruce".

3/5/02