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GAO

Report to Congressional Committees

June 2004

INTELLECTUAL PROPERTY

Economic Arrangements among Small Webcasters and Third Parties and Their Effect on Royalties

GAO-04-700

June 2004

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Economic Arrangements among Small Webcasters and Third Parties and Their Effect on Royalties

GAO Accountability•Integrity•Reliability

Highlights

Highlights of GAO-04-700, a report to congressional committees

Why GAO Did This Study

The emergence of webcasting as a means of transmitting audio and video content over the Internet has led to concerns about copyright protection and the payment of royalties to those who own the recording copyrights. Arriving at an acceptable rate for calculating royalties has been particularly challenging. Under the Small Webcaster Settlement Act of 2002, small commercial webcasters reached an agreement with copyright owners that included the option of paying royalties for the period of October 28, 1998, to December 31, 2004, on the basis of a percentage of their revenues, expenses, a combination of both, or a minimum fee rather than paying the royalty rates set by the Librarian of Congress.

During debate on the act, copyright owners raised concerns that small webcasters might have arrangements with other parties, such as advertisers, that could produce revenues or expenses that might not be included in their royalty calculations. In this context, the Congress mandated that GAO, in consultation with the Register of Copyrights, prepare a report on the (1) economic arrangements between small webcasters and third parties and (2) effect of those arrangements on the royalties that small webcasters might owe copyright owners.

www.gao.gov/cgi-bin/getrpt?GAO-04-700.

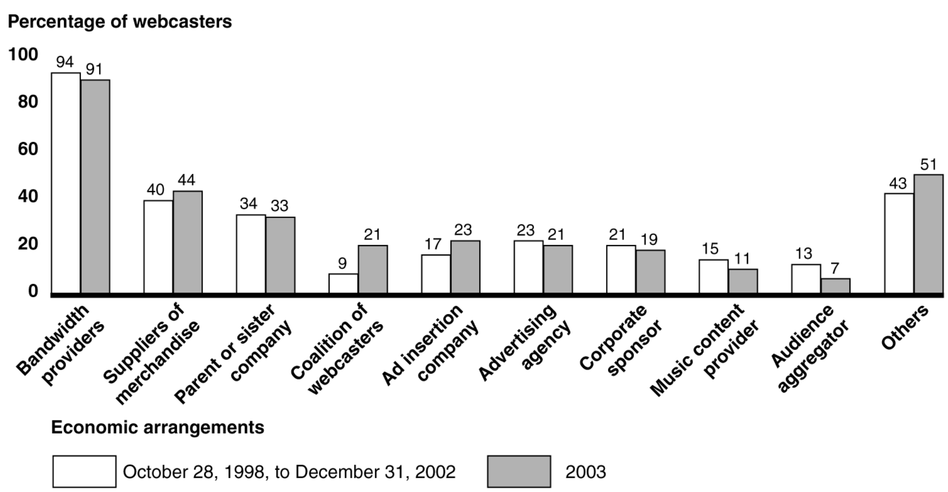
To view the full product, including the scope and methodology, click on the link above. For more information, contact Anu Mittal, (202) 512-3841, mittala@gao.gov.

What GAO Found

Small webcasters have a variety of economic arrangements with third parties, the most common being agreements with bandwidth providers and advertisers. Almost all of the webcasters that we interviewed reported arrangements with bandwidth providers, and many reported arrangements with advertisers. Less commonly reported arrangements included those with merchandise suppliers and companies that help small webcasters manage or obtain advertising for their Web sites, such as by inserting ads on the Web site or into the webcast itself or selling advertising based on the aggregate audiences of multiple webcasters.

Third-party economic arrangements have had a minimal effect to date on royalties owed by small webcasters to copyright owners. Of the 27 small webcasters we interviewed that had agreed to the terms of the small webcaster agreement and provided us with financial data, 19 reported revenue and expense estimates below the levels that would result in royalty payments greater than the minimum fee. We found limited evidence to suggest that small webcasters may not be reporting revenues and expenses as required by the small webcaster agreement. Specifically, 2 of the 13 small webcasters who reported receiving free or reduced-price items did not report the value of these items as revenue for calculating royalties. However, the data we obtained in our survey may not reflect conditions that could develop as the webcasting industry matures. According to industry analysts, revenues of small webcasters are likely to increase as they attract more listeners and advertisers rely more on the Internet to reach customers.

Types of Economic Arrangements with Third Parties



Source: GAO's survey of small webcasters.

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Abbreviations

CARP	Copyright Arbitration Royalty Panel
DMCA	Digital Millennium Copyright Act
GAO	General Accounting Office

United States General Accounting Office
Washington, D.C. 20548

June 1, 2004

The Honorable Orrin G. Hatch
Chairman
The Honorable Patrick Leahy
Ranking Minority Member
Committee on the Judiciary
United States Senate

The Honorable F. James Sensenbrenner, Jr.
Chairman
The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

The Internet has led to a new generation of content providers, commonly known as "webcasters," who transmit digitized audio or video works over the World Wide Web.[1] The emergence of this new industry raised concerns among record companies and performers because their works could be widely disseminated, which might result in diminished sales of their copyrighted works through record albums, compact discs, and other prerecorded formats. To address these concerns and to support the emergence of new digital technologies, the Congress extended limited copyright protection to performances of sound recordings being digitally transmitted.

Webcasting consists of several steps: assembling the recordings to be digitally transmitted over the Internet, translating them into digital format, and then delivering performances of the recordings to listeners through an Internet connection. The audio quality of recordings that are webcast depends on the bandwidth used—the number of bits of information transmitted per second. Higher bandwidth results in better audio quality and also allows a greater number of simultaneous listeners. Webcasters typically contract with other entities (commonly referred to as third parties), such as bandwidth providers, to supply different webcasting services. In addition, webcasters may contract with other third parties,

[1]This report discusses the webcasting of audio works, specifically sound recordings. Sound recordings are the actual sounds of a performance of a musical work and record companies typically hold the copyright to them.

such as companies who wish to advertise products on a webcaster's Web site, to obtain revenue that can help offset the costs associated with webcasting and return a profit to the webcaster.

A copyright is a form of legal protection provided to the authors of creative works, such as music and literature, that generally gives the owner certain exclusive rights.[2] These rights give the copyright owners control over their works—usually in exchange for compensation, known as a royalty. Generally, copyright owners and parties seeking to use copyrighted works voluntarily negotiate the rates at which royalties will be paid. However, the Congress has, in some cases, established a process under which the Librarian of Congress sets the royalty rates.

In 1995 and 1998, two key pieces of legislation gave copyright owners the right to control performances of sound recordings when they are digitally transmitted and gave webcasters the automatic right to use the recordings in certain circumstances in exchange for the payment of royalties under a statutory license.[3] The royalties were to be set at either a voluntarily negotiated rate or at a rate set by the Librarian of Congress, based upon hearings before a Copyright Arbitration Royalty Panel and the recommendation of the Register of Copyrights. However, arriving at the specific royalty rates that small commercial webcasters[4] should pay to owners for the use of their copyrighted recordings has been challenging. In 2002, the panel recommended royalty rates for webcasters that the Librarian subsequently rejected. The Librarian established lower rates that proved controversial to both copyright owners and to small webcasters. Copyright owners believed that the new rates were too low, while small webcasters believed that they were still too high, and small webcasters sought legislative relief to lower the rates further. In response, the Congress enacted the Small Webcaster Settlement Act of 2002, which

[2]Copyright owners have the right to reproduce the copyrighted work, prepare derivative works based upon the copyrighted work, distribute copies or phonorecords of the copyrighted work, perform the copyrighted work publicly, display the copyrighted work publicly, and since 1995, in the case of sound recordings, perform the copyrighted work publicly by means of a digital audio transmission.

[3]A statutory license is a license provided by copyright law, as opposed to one that is voluntarily granted by individual copyright owners. The license allows those webcasters making noninteractive transmissions to use copyrighted works provided they pay the statutory rates and adhere to certain programming and reporting requirements.

[4]Small commercial webcasters are defined as those who earned less than $500,000 in 2003. Throughout this report we refer to small commercial webcasters as small webcasters.

allowed small webcasters and copyright owners to enter into an agreement that provides for the payment of royalties based on a percentage of revenues, expenses, both revenue and expenses, or a minimum fee, for two time periods—the historical period, which began on October 28, 1998, and ended on December 31, 2002, and 2003 through 2004.

During the debate on the Small Webcaster Settlement Act, copyright owners also raised concerns about the economic arrangements that small webcasters have with third parties, arguing that these arrangements could produce revenues or expenses that might not be included in the calculation of royalties that the small webcasters owed to them. To provide more information on such arrangements, the Congress mandated that GAO, in consultation with the Register of Copyrights, prepare a report on (1) the economic arrangements between small webcasters and third parties and (2) the effect of those arrangements on royalties that are based on a percentage of the webcaster's revenues or expenses.

As required by the act, we coordinated with officials from the U.S. Copyright Office throughout the course of our work and incorporated their technical and other comments into the report as appropriate. To respond to the objectives of this study, we met with officials from organizations that represent small webcasters, the Recording Industry Association of America,[5] and SoundExchange.[6] We interviewed advertising agency staff, a bandwidth provider, and industry analysts. We also reviewed relevant copyright laws, regulations, and articles. In addition, we conducted structured telephone interviews with 58 small webcasters located throughout the country—30 that had agreed to the terms of the agreement reached under the Small Webcaster Settlement Act and 28 that had not.[7] In conducting our interviews, we requested the same revenue and expense data that these small webcasters were required to submit to copyright owners under the small webcaster agreement. Twenty-seven of the 30 small webcasters that had agreed to the terms of the small webcaster agreement provided us with estimates of their revenues and expenses.

[5]The Recording Industry Association of America is a trade group that represents the U.S. recording industry.

[6]SoundExchange is a nonprofit organization designated by the Librarian of Congress, at the request of both copyright owners and webcasters, to receive royalty payments from webcasters and distribute them to copyright owners and performers.

[7]Throughout this report we will refer to the agreement reached by copyright owners and small webcasters as the small webcaster agreement.

Because the U.S. Copyright Office does not enforce copyrights or collect financial data, we did not have access to the financial records of the small webcasters that we interviewed and thus could not verify the accuracy of the revenue and expense data they provided to us. Nor did we attempt to determine whether these small webcasters had paid the royalties based on those estimates. Appendix I provides additional details on our scope and methodology.

We conducted our work from May 2003 through May 2004 in accordance with generally accepted government auditing standards.

Results in Brief

Small webcasters have a variety of economic arrangements with third parties, such as bandwidth providers, businesses seeking or selling advertising space, and merchandise providers. Virtually all of the webcasters that we interviewed—the 30 that had agreed to the royalty terms in the small webcaster agreement and the 28 that had not—reported having arrangements with bandwidth providers from 1998 through 2003. Forty webcasters reported arrangements for selling advertising space either directly or through advertising firms. However, advertising sales have remained low, according to industry analysts, in part because of the collapse of the high technology business sector since 2000 and the relative novelty of the Internet as an advertising medium. Twenty-five, or 44 percent, of the small webcasters that we contacted also reported arrangements with businesses to sell merchandise, such as T-shirts and coffee mugs, through their Web sites. Less commonly reported arrangements included those with companies that help small webcasters manage or obtain advertising for their Web sites such as by inserting ads on the Web site or into the webcast itself or selling advertising based on the aggregate audiences of multiple webcasters.

Data obtained from the small webcasters that agreed to the terms of the small webcaster agreement suggest that the overall effect of economic arrangements between small webcasters and third parties on royalties owed to copyright owners has been minimal to date. Of the 30 small webcasters we interviewed that had agreed to the terms of the small webcaster agreement, 27 provided us with financial data. Nineteen of the 27 reported revenue and expense estimates that were below the levels that would result in royalty payments at an amount greater than the minimum fee for either or both of the time periods for which payments were to be made. The remaining 8 owed royalties that exceeded the minimum fee. In addition, 2 of the 13 small webcasters that reported receiving free or reduced-price goods or services did not report the free service they received as revenue in their calculations of royalties. However, these data may not be reflective of conditions that may develop as the industry matures. Specifically, revenues and expenses of small webcasters might increase as they attract more listeners, and advertising opportunities and rates may also increase as the webcasting industry matures and advertisers rely more on the Internet as part of their advertising efforts, according to industry analysts.

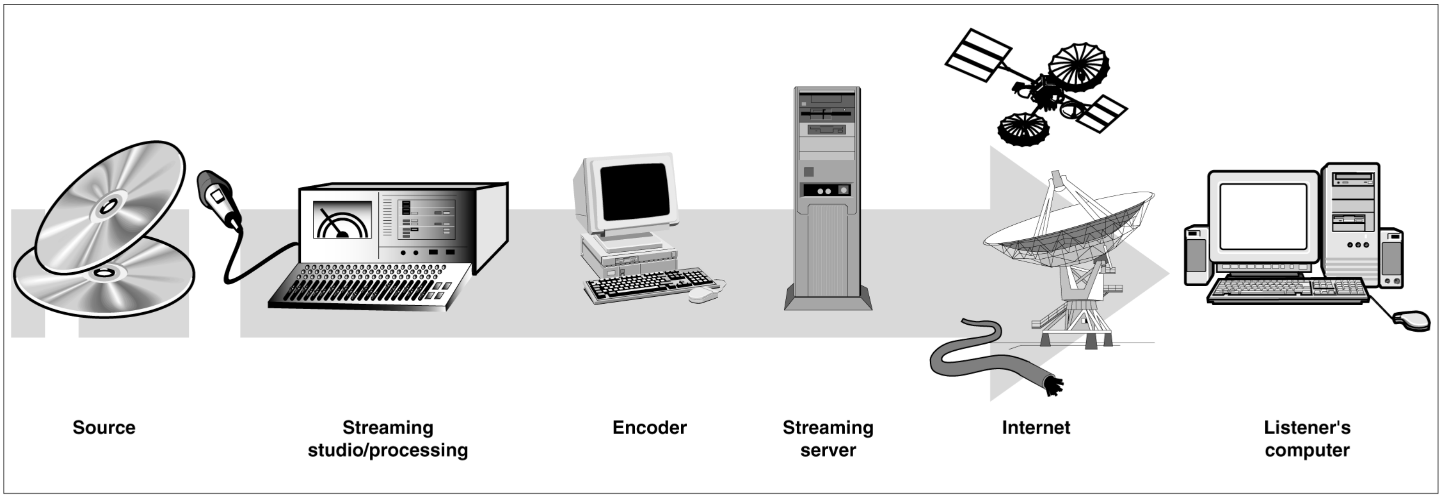
Background

The advent of the Internet and digital transmission of sound recordings through personal computers has revolutionized the music industry and created a new way to transmit music directly to listeners. Although personal computers have been available since the late 1970s and music in digital form since the early 1980s, it was opening up the Internet to commercial activity in 1992 that set the stage for webcasting. In webcasts, sound recordings, such as records and compact discs, and live performances can be transmitted to listeners over the Internet. The popularity of webcasting is growing, with the number of listeners tripling over the past 3 years.

Webcasting and traditional radio broadcasting follow essentially the same steps to deliver music to listeners (see figs. 1 and 2). Many webcasters and traditional radio stations deliver music to listeners at no charge.[8] A key difference, however, concerns the number of potential listeners. In traditional radio broadcasting, a station's signal is available to any number of listeners within range of the transmitter. In contrast, the potential audience for a webcast is anyone in the world whose computer is equipped with a media player.

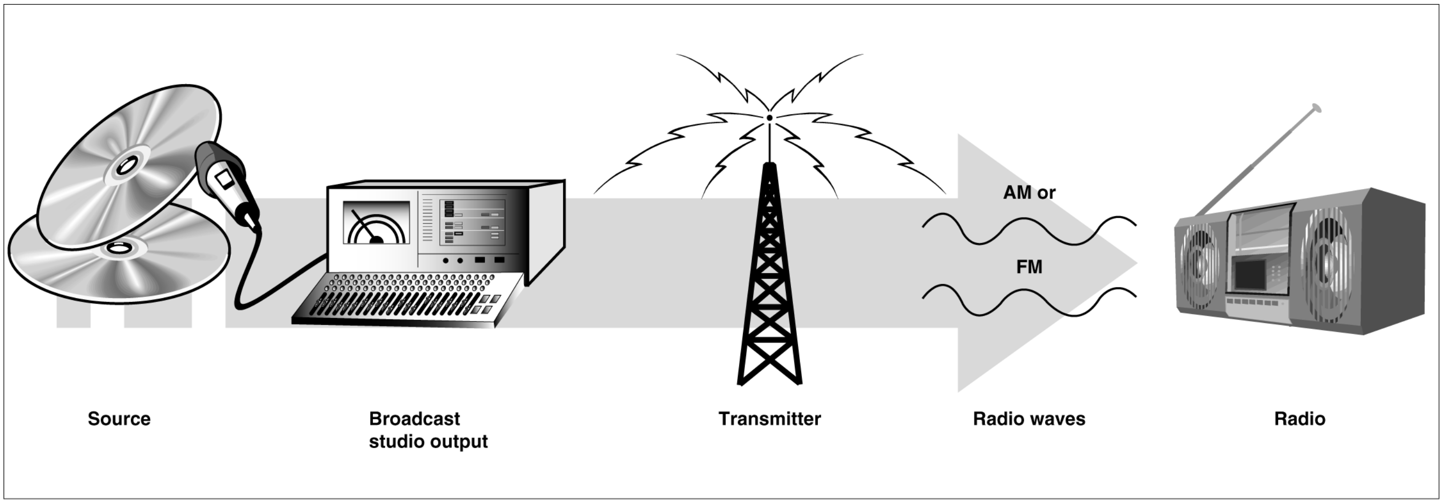
[8]Some webcasters and radio stations offer subscription services that deliver music to listeners in exchange for a fee. The focus of this report is nonsubscription webcasts.

Figure 1: Webcasting Transmission Process



Source: GAO.

Figure 2: Traditional Radio Broadcasting Transmission Process



Source: GAO.

Webcasting, also called Internet streaming, is the process of transmitting digitized audio or video content over the Internet. The content can originate from live performances, records, compact discs, or other prerecorded formats. A webcast consists of several steps. The webcasters must first assemble the music that will be transmitted and then translate it into one or more digital formats. Music that is not streamed "live" must be stored so that it is available to individuals who use their personal computers to access the Web site created by the webcaster. The final step is delivering the music through an Internet connection.

Choices about the audio quality of the transmitted music and the size of the audience affect the webcaster's operation costs. The quality of the resulting music depends on the bandwidth—the number of bits of information transmitted per second—used by the webcaster. Higher bandwidth results in better sound quality of the transmitted music and allows a greater number of simultaneous listeners. The size of the Internet connection to the webcaster's server and the choice of bandwidth determine the potential size of the audience. Although in its most basic form webcasting can be a relatively inexpensive "do-it-yourself" operation using a minimum of two computers and an Internet connection, the trade-off is lower sound quality and smaller audience size. Alternatively, webcasters that hope to reach a large audience with high-quality music frequently contract with one or more third parties to provide the different steps. Such third parties can provide a single service or some combination of services, including translating the music into digital form and adjusting bandwidth needs to accommodate the number of simultaneous listeners. Some may also provide data on the number and location of listeners. Because webcasters frequently deliver their music at no charge to listeners, webcasters may contract with other third parties, such as companies that wish to advertise products on the webcaster's Web site, to obtain revenue that can help offset the costs associated with webcasting and return a profit to the webcaster.

The Internet and the ability to digitally transmit sound recordings have created opportunities for the recording companies that typically own the copyrights in sound recordings to reach an unprecedented number of listeners. Accompanying these opportunities are challenges for copyright owners to maintain control over, and be compensated for, the use of their copyrighted recordings. In the United States, the owners of copyrights in sound recordings have not historically enjoyed the exclusive right to control or authorize public performances of their recordings. Traditionally these copyright owners generated royalties by selling copies of the recordings in the form of albums, cassette tapes, and compact discs. Although radio broadcasters pay royalties to publishers and writers for use of a musical work, they were not obligated to pay record companies for the use of sound recordings.[9]

Two key pieces of legislation gave copyright owners the right to control performances of sound recordings when they are digitally transmitted and gave webcasters the automatic right to use the recordings under certain circumstances in exchange for the payment of royalties under a statutory license. The Digital Performance Right in Sound Recordings Act, enacted in 1995, granted copyright owners the exclusive right to control or authorize the use of recordings when they are digitally transmitted but not, for example, when they are transmitted for use as background music in a restaurant.[10] In the Digital Millennium Copyright Act (DMCA), the Congress expanded the scope of this digital transmission right.[11] Among other things, the DMCA specifies that webcasters may operate under an automatic license to use copyrighted works at either a voluntarily negotiated rate or at a rate recommended by a panel known as a Copyright Arbitration Royalty Panel (CARP), subject to review by the Librarian of Congress.[12] These rates, retroactive to October 1998, were to apply through December 2002. The act called for this procedure to be repeated every 2 years as the webcasting industry developed, though it could be extended by agreement between the copyright owners and webcasters.

However, the legislation created conflict between record companies and webcasters. The DMCA provided the opportunity to negotiate royalty rates independently. But after negotiations between owners and webcasters broke down, the Library of Congress convened a CARP to resolve the issue and determine the appropriate rates. The CARP held hearings for 6 months, during which both the copyright owners and webcasters presented their cases. In February 2002, the CARP issued a royalty rate recommendation.

[9]The sound recording and the underlying musical work are separate works, each of which is protected by its own copyright. Both webcasters and traditional radio broadcasters are responsible for paying royalties to owners of copyrights in the underlying musical works.

[10]Pub. L. No. 104-39, 109 Stat. 336 (1995).

[11]Pub. L. No. 105-304, 112 Stat. 2860 (1998).

[12]The Librarian of Congress is empowered to review CARP decisions and must accept its recommendations for setting rates and terms, unless the Librarian, based upon the recommendation of the Register of Copyrights, determines that the CARP's recommendations are arbitrary or contrary to law.

In June 2002, the Librarian rejected some of the webcasting rates recommended by the CARP and issued a regulation that set royalty rates for Internet transmissions. Both record companies and webcasters contested the Librarian's rates and sought relief in the courts. Some small webcasters believed that the rates set by the Librarian were too high, arguing that they would have to close their operations because they could not pay the rates set by the Librarian and that these rates would put an end to the promise of webcasting. Copyright owners believed the rates were too low and did not reflect the true market value of their music, causing them to, in essence, subsidize the webcasters. Moreover, they argued that royalties are simply another cost of doing business, like buying bandwidth, and webcasters that could not afford to pay them should not be operating.

In response to these concerns, the Congress passed the Small Webcaster Settlement Act of 2002.[13] The act did not set new royalty rates but instead allowed small webcasters and copyright owners another opportunity to negotiate an agreement on royalty rates for the period beginning October 28, 1998, through December 31, 2004.[14] These negotiated rates were to be based on a percentage of revenue or expenses, or a combination of both; were to include a minimum fee; and were to apply in lieu of rates set by the Librarian of Congress (see table 1). This option was available to any small webcaster that met the agreed-upon eligibility requirements. In December 2002 the U.S. Copyright Office published the resulting agreement under the act.[15] The agreement contained specific guidance for webcasters to follow in determining the specific revenue and expense categories that were to be included in the calculation of royalties due to copyright owners. The guidance defines revenues and expenses in ways compatible with generally accepted accounting principles and income tax reporting.

[13]Pub. L. No. 107-321, 116 Stat. 2780 (2002).

[14]Under the Small Webcaster Settlement Act, SoundExchange was permitted to enter into agreements on behalf of all copyright owners and performers. The small webcasters were represented by Voice of Webcasters, a coalition of small commercial webcasters.

[15]67 Fed. Reg. 78510 (2002).

Table 1: Summary of the Royalty Rates and Fees for Small Webcasters

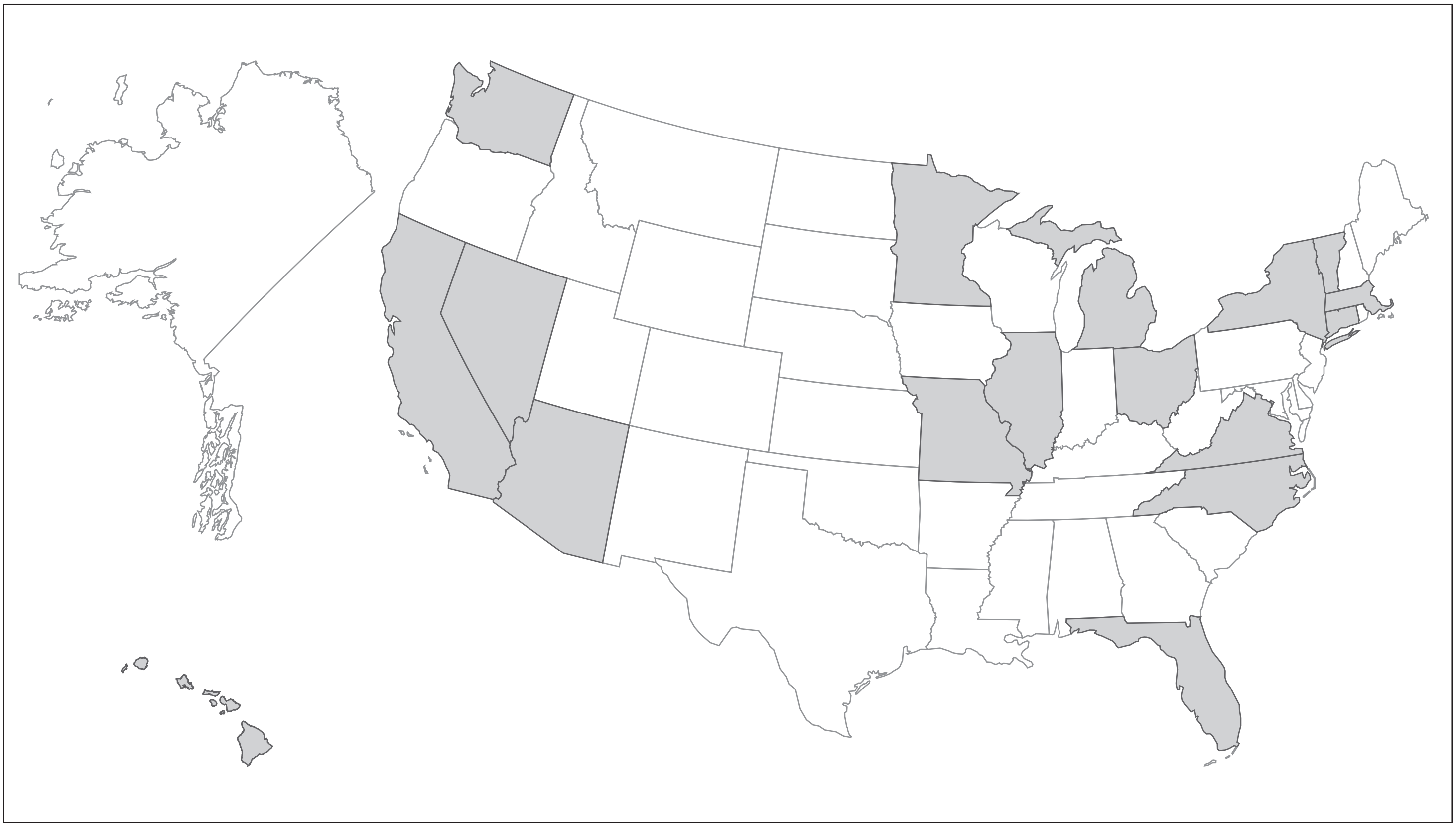
Time period	Revenue rate	Expense rate	Minimum annual fee
October 28, 1998 – December 31, 1998	8% of gross revenues	5%	$500
January 01,1999 – December 31, 2002	8% of gross revenues	5%	$2,000
January 01, 2003 – December 31, 2004	10% of the first $250,000 of gross revenues and 12% of any gross revenues in excess of $250,000	7%	$2,000 for webcasters with gross revenues that were not in excess of $50,000 the previous or year or expected to exceed $50,000 during the current license period $5,000 for webcasters with gross revenues that exceeded $50,000 the previous year or are expected to exceed $50,000 during the current license period

Source: GAO.

Note: Small webcasters owe royalties based on a percentage of revenue or expenses or a minimum fee, whichever is greater.

As of October 2003, 35 small webcasters that had elected to follow the royalty rates and terms set out in the agreement were in operation. As shown in figure 3, these webcasters were located throughout the United States, with one in Canada. We interviewed 30 of these webcasters. Rock and pop are the types of music they most often delivered to listeners, although they also webcast rhythm and blues, jazz, “oldies,” and electronic dance music. For 17 of these small webcasters, the targeted audience includes both men and women, while the audience for the remaining 11 is predominately men. Almost all of these small webcasters target listeners between the ages of 25 and 34.

Figure 3: Location of Small Webcasters That Signed the Small Webcaster Agreement



Source: GAO.

Small Webcasters Enter into a Variety of Economic Arrangements with Third Parties

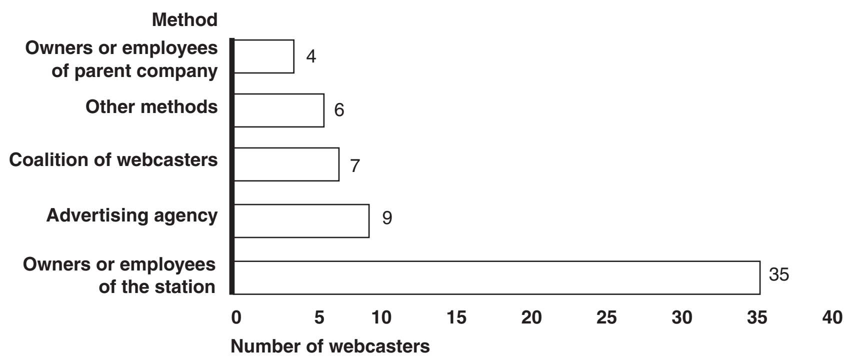
Small webcasters have economic arrangements with various third parties, including bandwidth providers, advertisers, and merchandise providers. Other less commonly reported arrangements with third parties included those with companies that help small webcasters manage or obtain advertising, such as companies that insert ads either on the Web site or into the webcast, and companies that sell advertising based on the aggregate audience of multiple webcasters. We determined that the economic arrangements of the small webcasters that elected to follow the terms in the small webcaster agreement and those that elected not to do so were not substantially different.

Arrangements with Bandwidth Providers and Advertisers are Most Common

Fifty-two, or 91 percent, of the small webcasters that we interviewed reported having had arrangements with bandwidth providers during the year 2003. In addition, 24 small webcasters said that they had received free bandwidth. However, only 16 of them had received free bandwidth in 2003. Fifteen small webcasters reported that they had received bandwidth at a reduced price at some point, while 14 were receiving it at a reduced price in 2003. Although bandwidth is the dominant cost component for most webcasters, some bandwidth providers offer these incentives as a means to gain business for themselves and to promote the small webcaster market in general.

Over half of the small webcasters interviewed had attempted to sell advertising space, either directly or through advertising firms. Of the 40 small webcasters that reported having attempted to sell advertising space, 38 said they were currently running advertising on their stations and 2 stated that they had run advertising in the past, but were no longer doing so. As shown in figure 4, these small webcasters had various methods of selling advertising space. Most reported that the owners or employees of their stations sold advertising space. Other arrangements to sell advertising space, such as through advertising firms or coalitions of webcasters, were less common.

Figure 4: Methods of Selling Advertising Space

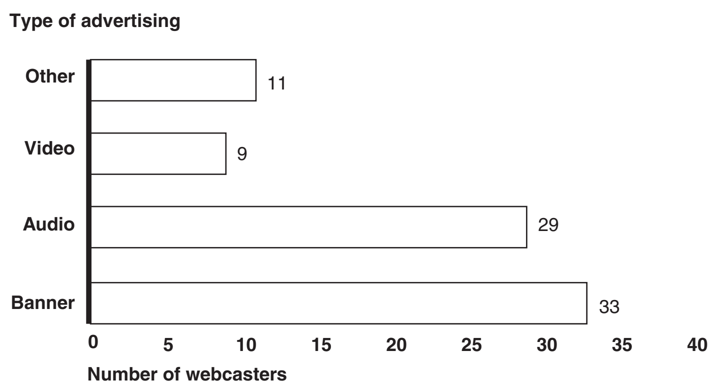


Source: GAO's survey of small webcasters.

Note: Thirty-eight of the 40 small webcasters that had sold advertising space responded to this survey question. Webcasters could report using more than one method.

Small webcasters use various types of advertising on their sites. Banner ads, which are graphic images that typically appear toward the top of Web pages, were the most common type of advertising used by small webcasters (see fig. 5). Thirty-three of the small webcasters reported that they use banner ads on their sites, and another 2 reported that they used banner ads in the past, but no longer do so. Audio ads, which play at the beginning or during a small webcaster's stream, were currently being used by 29 of the small webcasters, and another 3 reported having used them in the past. Video ads, which are either shown on the computer screen whenever the listener tunes to the station or during the stream, were less common. Only 9 of the small webcasters reported using video ads, and another 4 said they had used them in the past. Some of the small webcasters reported using some other type of advertising on their sites.

Figure 5: Types of Advertising Currently Used by Webcasters

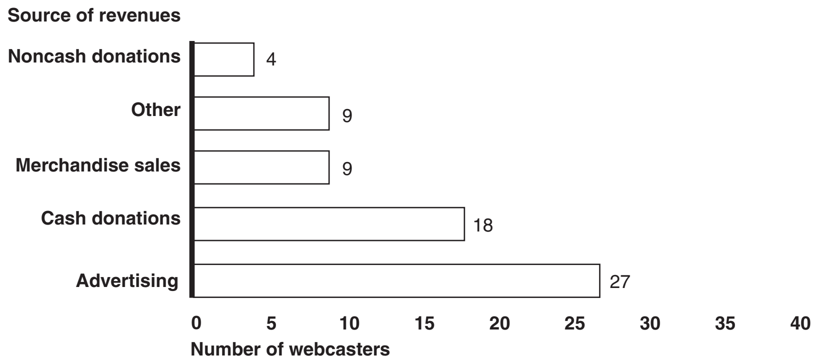


Source: GAO's survey of small webcasters.

Note: Forty small webcasters responded to this survey question. Webcasters could report using more than one type.

Advertising is a primary source of revenue for the small webcasters we interviewed. Twenty-seven of the 58 small webcasters interviewed reported that advertising had provided at least 10 percent of their station's gross revenue in 2003 (see fig. 6). According to industry analysts and representatives, advertising sales have remained low, in part due to the collapse of the high technology business sector since 2000 and because of the relative novelty of the Internet as an advertising medium. Twelve of the small webcasters interviewed reported that they had received free or reduced-price advertising since 1998. In addition to advertising, other sources of revenue for the small webcasters included donations and merchandise sales.

Figure 6: Sources Providing at Least 10 Percent of Webcasting Revenue



Source: GAO's survey of small webcasters.

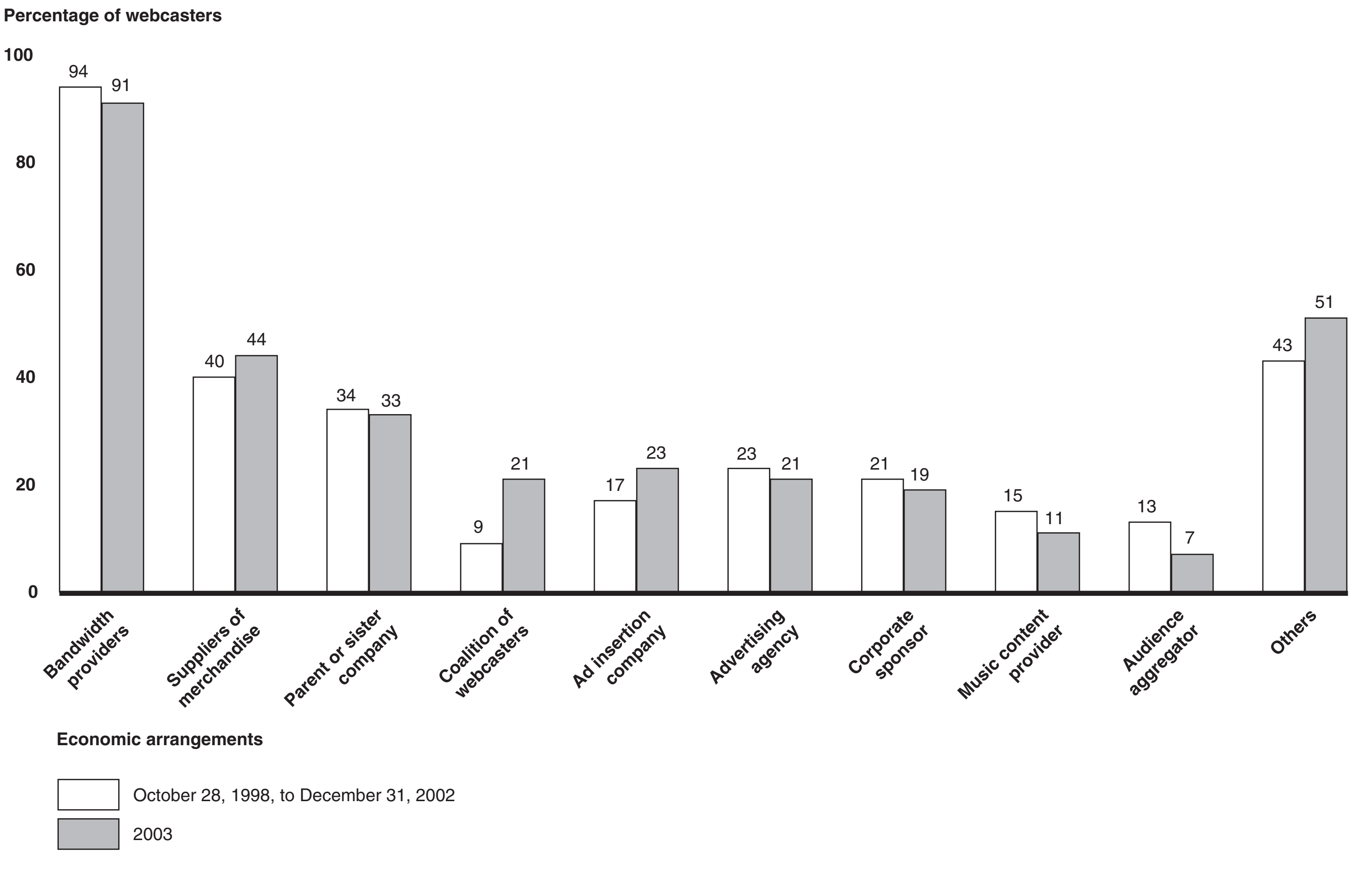
Note: Fifty-six webcasters responded to this survey question.

Arrangements with Merchandisers and Other Third Parties Are Less Prevalent

Small webcasters generally did not have arrangements with other third parties, such as merchandisers and ad insertion companies. Twenty-five, or 44 percent, of the small webcasters that we interviewed reported that they had economic arrangements with suppliers of merchandise, such as T-shirts or coffee mugs in 2003 (see fig. 7). This represented an increase of 4 percent from the 1998 through 2002 time period. In addition to selling merchandise on their sites, 15 small webcasters reported that they had received merchandise, such as compact discs and T-shirts, for free or at a reduced price.

Thirteen, or 23 percent, of the small webcasters reported that they had economic arrangements in 2003 with ad insertion companies, which sell either the technology for inserting ads into a webcaster's audio stream or the service of inserting the ads. This technology can help small webcasters target their advertisements to the profiles of their listening audiences as well as provide links to their advertisers' Web sites. Other types of economic arrangements that were even less common involved coalitions of webcasters and arrangements with aggregators. Twelve, or 21 percent, of the small webcasters reported that they had economic arrangements in 2003 with a coalition of webcasters. Such coalitions have formed to help webcasters market themselves to advertisers. Seven percent of the small webcasters reported that in 2003 they had economic arrangements with companies that sell advertising based on the aggregate audience of multiple webcasters. When an advertiser purchases advertising space from a webcaster, the advertiser is purchasing the chance to present a message to as many listeners as possible. While some webcasters are small and may not have enough listeners to attract advertisers on their own, they have entered into arrangements with companies that sell advertising space based on an aggregate audience of multiple webcasters. Other arrangements included those with parent and sister companies and with corporate sponsors.

Figure 7: Types of Economic Arrangements with Third Parties



Source: GAO's survey of small webcasters.

Note: Forty-seven of the 48 small webcasters that were operating between December 28, 1998, and December 31, 2002, responded to this survey question for both time periods. Ten additional small webcasters that began operating in 2003 responded to this survey question for 2003.

Available Data Suggest the Effects of Economic Relationships between Small Webcasters and Third Parties on Royalties Have Been Minimal to Date

Data obtained from small webcasters that agreed to the terms of the small webcaster agreement suggest that to date the overall effect of their economic arrangements with third parties on royalties owed to copyright owners has been minimal. Most of these small webcasters owed the minimum royalty fee for either or both of the time periods for which payments were to be made. Because royalty obligations for these webcasters are based on a percentage of their revenues or expenses, or a minimum fee, whichever is greater, accurate reporting is essential to ensure the appropriate payment of royalties. We found only limited evidence to suggest small webcasters might not be doing so.

Royalties for Most Small Webcasters Equal the Minimum Fee

The majority of small webcasters we interviewed that had agreed to the royalty terms in the small webcaster agreement owed royalties equal to the minimum fee because they did not generate revenue or incur expenses sufficient to exceed the thresholds for owing royalties above the minimum fee. Nineteen, or 70 percent, of the 27 small webcasters that provided us with financial information reported revenue and expense estimates that were below the levels that would result in royalty payments above the minimum fee for one or both of the time periods for which payments were to be made—the historical period, which began on October 28, 1998, and ended on December 31, 2002, and 2003 (see table 2). The specific revenue and expense thresholds vary, in part, depending on when the webcaster began operating. The revenue threshold ranged from $25,000 for those that began operating in 2002 to more than $100,000 for those that began in 1998, while the expense threshold ranged from $40,000 to $170,000. For the period 2003 to 2004, the revenue threshold varied in relation to anticipated revenue, with the threshold at $20,000 for those earning less than $50,000 and at $50,000 for those earning more. During the same time period, the expense threshold was $28,571 for those earning less than $50,000 and $71,429 for those earning more. Most small webcasters reported revenues or expenses that were less than half the thresholds required for royalty payments to exceed the minimum fee.

Table 2: Basis for Royalty Obligations for Two Time Periods

Basis	Number of small webcasters
Owed the minimum fee for one or both time periods	19
Owed royalties based on revenues for one or both time periods	5
Owed royalties based on expenses for both time periods	3
Total	**27**

Source: GAO's survey of small webcasters.

Note: Three of the 30 small webcasters that agreed to the terms of the small webcaster agreement did not provide us with financial information.

Eight small webcasters owed royalties that were based on either revenues or expenses and exceeded the minimum fee. Five owed $3,000 or less above the minimum fee and one owed $5,000 above the minimum fee. The remaining two small webcasters owed more than three times the amount of the minimum fee. These two owed royalties based on their revenues in both time periods. One webcaster attributed much of its revenue to a relationship with an online retailer, while the other received revenue from an Internet service provider that offered its customers the option of including the webcast as an additional service. The specific minimum fee applicable to any individual small webcaster varied in the first period in relation to when it began transmitting, ranging from a low of $500 for a webcaster that operated only in 1998 to $8,500 for one that was operating for all or part of each year from October 28, 1998, through December 2002. The minimum fee for the period 2003 to 2004 varied in relation to anticipated revenue and was $2,000 for small webcasters earning $50,000 or less and $5,000 for those earning more.

Reporting revenue and expenses in accordance with the small webcaster agreement is important to help ensure the proper payment of royalties. Under the agreement, all money earned and all expenses incurred, with certain exceptions, are to be reported for purposes of calculating royalties. For example, small webcasters may exclude revenues from the sale of recordings or assets such as land or buildings and such expenses as royalties paid, the cost of recordings used in the webcast, and the value of residential space used in the operation of the webcasting service.

Transactions that do not involve the exchange of money but result in the webcaster receiving something of value are to be included in statements of revenues or expenses. The value of the goods or services received is to be included in the small webcaster's revenue, and any goods or services the small webcaster offered in exchange are to be reported as expenses. For example, if a small webcaster received free bandwidth, the value of that service should be included as revenue. In some cases, small webcasters contract with an advertising firm that forwards a portion of the advertising sales to the small webcaster and retains a portion as commission. In these cases, the small webcaster is to report the money it received as revenue and the portion retained by the advertising firm as an expense.

Although the extent to which small webcasters comply with the agreed-upon guidance for reporting revenues and expenses could not be determined without a detailed review of their financial records, small webcasters that elect to follow the terms of the small webcaster agreement subsequently certify that the figures they report to copyright owners are accurate under penalty of law. Copyright owners have the right to initiate a detailed review of financial records to verify the accuracy of the reported figures. However, an attorney representing copyright owners said that, to his knowledge, no such reviews have been conducted.

We found limited evidence to suggest that small webcasters might not be reporting revenues and expenses as agreed. Specifically, while 13 of the small webcasters interviewed said they had received goods or services at no charge, 2 reported having no revenue, although they had received free bandwidth. In each case, however, these small webcasters reported revenue and expense estimates that were well below the revenue and expense threshold, and both were subject to the minimum fee for both the period from 1998 to 2002 and for 2003.

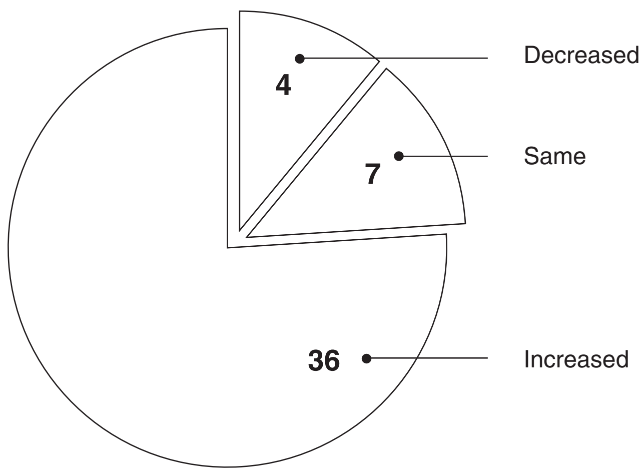
Effect of Economic Arrangements May Change As Industry Evolves

Although the majority of small webcasters that we interviewed reported revenues and expenses that were substantially below the levels required to pay a royalty above the minimum fee, this may change as the industry matures.[16] Revenues and expenses of small webcasters might increase as they attract more listeners, and advertising opportunities and rates may also increase as the webcasting industry matures and advertisers rely more on the Internet as part of their advertising efforts. Two trends that may affect the amount of royalties that small webcasters may have to pay in the

[16]The current agreement between copyright owners and small webcasters expires at the end of 2004. It is not clear whether small webcasters will continue to have an option to pay royalties as a percentage of their revenue or expenses.

future include growth in audience size and growth in advertising. The number of Americans listening to Internet transmissions nearly tripled between 2000 and 2003, and about 40 percent of Americans have listened to webcasts, including Internet transmissions of over-the-air radio programming, at least once, according to recent reports by an international media and marketing research firm.[17] Industry analysts expect this growth to continue. Small webcasters that we interviewed also reported growth in the sizes of their audiences. Thirty-six, or 76 percent, of the small webcasters that we interviewed that started webcasting before January 2002 said their audience size had increased, although they could not quantify the extent of the increase (see fig. 8).

Figure 8: Change in Audience Size among Webcasters



Source: GAO's survey of small webcasters.

Note: Forty-seven of the 48 small webcasters that were in operation on or before January 2002 responded to this survey question.

As mentioned earlier, the small webcasters that we interviewed indicated that they depend upon advertising as a primary source of revenue. According to an estimate from one of the reports cited above, if the aggregate webcast audience could be "sold" to advertisers as if it were an over-the-air radio network, it could generate up to $54 million per year in

[17] Arbitron/Edison Media Research, 2003. "Internet and Multimedia 11: New Media Enters the Mainstream" and "Internet and Multimedia 10: The Emerging Digital Consumer."

advertising revenue. However, according to industry analysts, webcasters have the potential to increase their advertising revenues over current levels, in part because they have the ability to provide demographic information about their listeners, which allows advertisers to more accurately target advertisements to potential consumers.

We will send copies of this report to the appropriate House and Senate committees; interested Members of Congress; the Librarian of Congress; and to the Director, Office of Management and Budget. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you have any questions about this report, please contact me at (202) 512-3841. Other major contributors to this report are listed in appendix III.

Anu K. Mittal
Director, Natural Resources
and Environment

Scope and Methodology

As required by the Small Webcaster Settlement Act of 2002, we conducted a study in consultation with officials from the U.S. Copyright Office in the Library of Congress to determine (1) the economic arrangements between small commercial webcasters and third parties[1] and (2) how those arrangements affect royalties due to copyright owners and performers. We consulted officials from the U.S. Copyright Office throughout the course of our work and incorporated the suggestions and comments we obtained into our report as appropriate.

To respond to the objectives set out in the act, we met with officials from the U.S. Copyright Office, the Library of Congress, and representatives of organizations that represent copyright owners. In addition, we interviewed staff from businesses that provide advertising and other services to small webcasters and industry analysts. We also reviewed relevant copyright laws, regulations, and articles.

To obtain information from small webcasters, we developed a structured interview. We pretested the content and format of this interview with 6 webcasters. During these pretests we asked the small webcasters to assess whether the questions were clear and unbiased and whether the terms were accurate and precise. We made changes to the interview protocol based on pretest results. We conducted the interview via telephone with 58 small webcasters located throughout the country—30 who had agreed to the terms of the agreement reached by copyright owners and small webcasters under the Small Webcaster Settlement Act and 28 who had not.[2]

The U.S. Copyright Office is not required to and does not maintain a list of small webcasters. As a result, to identify the universe of small webcasters, we obtained a list from SoundExchange of 35 small webcasters that had elected to follow the terms of the small webcaster agreement.[3] We

[1]Third parties are entities that have economic arrangements, such as contracts or agreements, to provide such goods or services to small webcasters as bandwidth, advertising, corporate sponsorship, or musical content.

[2]In this report we refer to this agreement as the small webcaster agreement.

[3]Small webcasters that elected to follow the terms of the agreement were required to submit election forms and financial data to SoundExchange, the organization designated by the Librarian of Congress at the request of both copyright owners and webcasters to receive royalty payments from webcasters and distribute them to copyright owners. The U.S. Copyright Office has no responsibility for administering the rates and terms of the small webcaster agreement.

subsequently learned that one of the webcasters had determined that it was not eligible to follow the terms of the agreement because the station made too much revenue, and a second webcaster operated only as a subscription service. A third webcaster informed us that it had ceased operating in December 2000. SoundExchange later sent us an updated list that included 3 additional small webcasters. Thus, the number of eligible small webcasters that were operating as of October 2003 and had agreed to follow the terms of the agreement was 35. We completed interviews with 30 of these small webcasters for a response rate of 85.7 percent.

We also interviewed small webcasters that did not elect to follow the terms of the small webcaster agreement. We obtained a list of 121 names of small webcasters from BRS Media (a private firm that maintains a list of Internet broadcasting firms). To the best of our knowledge, this encompassed all small webcasters operating in the United States. Of these 121 webcasters, 28 were no longer operating or did not appear to meet the definition of an eligible small commercial webcaster, and 4 had signed the small webcaster agreement (and thus were on the list of "signers"). We attempted to reach the remaining 89 small webcasters. Forty-two small webcasters were contacted. Interviews were completed with 28 that met the criteria of "small webcaster." Fourteen webcasters refused to be interviewed. We were not able to contact the remaining 47 webcasters, although we made repeated attempts and left messages when we could. We did not calculate the response rate for the group of small webcasters that did not sign the agreement because we did not know how many of those not interviewed were eligible small webcasters, and we did not have enough information to reasonably estimate the percentage that might be eligible.

To protect the confidentiality of the small webcasters we interviewed, we randomly assigned each an identification number and documented their responses to our interview questions with the identification number. During the interviews, we asked the 58 small webcasters about economic arrangements they had with third parties, whether they were currently receiving or had previously received any free or reduced-price goods or services, and requested estimates of their revenues, expenses, and third party revenues. For those small webcasters that had signed the election form to follow the terms of the small webcaster agreement, we asked for their reasons for doing so. For those that had not signed the election form, we asked for their reasons for not doing so. For many of the questions, we asked small webcasters to provide separate responses for two different periods to correspond with the reporting periods contained in the agreement—the historical period, which began on October 28, 1998, and ended on December 31, 2002, and 2003 to 2004. We asked small webcasters to provide information through the date of our interviews, which were conducted in November and December 2003.

We also asked each of the 30 small webcasters we interviewed who had elected to follow the terms of the small webcaster agreement to sign a release form allowing us to obtain access to the financial records they had submitted to SoundExchange. We obtained signed release forms from 25 of the 30 (83.3 percent) small webcasters. A representative of SoundExchange subsequently informed us that it had no financial information for 9 of these 25 small webcasters. We reviewed the information the 16 remaining small webcasters had provided to SoundExchange to determine whether it was comparable to the information they had provided to us.

To assess the effect that economic arrangements between small webcasters and third parties have on the royalties due to copyright owners and performers, we used financial information obtained during our interviews with 27 of the 30 small webcasters that elected to follow the terms of the agreement. Three of the 30 small webcasters declined to provide any financial information. We calculated the threshold revenue amounts that each of the 27 small webcasters would have had to exceed to owe more than the minimum royalty fee. These revenue amounts were calculated for both time periods—October 28, 1998 through December 31, 2002, and for 2003—and were based on the length of time the small webcaster had been in operation. We then estimated the amount that each small webcaster owed in royalties for each of the two time periods based on the revenue and expense data that they provided to us. For small webcasters that did not report revenue or expense estimates for the entire year, we used their average monthly revenues to project their yearly gross revenue and/or expenses. These estimated values were compared to the threshold amounts and allowed us to determine whether the small webcasters were subject to royalty payments above the minimum fee.

Results of GAO's Survey of Small Webcasters

Q1: Number of Webcasters Who Began Operating Current Nonsubscription Webcasting Service in Years 1997 to 2003			
Year	Signed small webcaster agreement (N=30)	Did not sign small webcaster agreement (N=24)	All respondents (N=58)[a]
1997	1	0	3
1998	3	2	5
1999	4	3	7
2000	4	11	17
2001	4	3	7
2002	7	2	9
2003	7	3	10

[a]Fifty-eight webcasters completed our interview. Four webcasters could not be reliably classified as having signed or not signed the small webcaster agreement . They were included in the analyses of all respondents, but not in the analyses of those who had signed or not signed the agreement. Not all respondents answered all questions.

Q2: Percentage of Webcasters Playing Different Types of Music

Type of music	Signed small webcaster agreement (N=30)	Did not sign small webcaster agreement (N=24)	All respondents (N=58)
African	16.67	8.33	15.52
Bluegrass	33.33	12.50	24.14
Broadway or show tunes	16.67	4.17	10.34
Classical	26.67	16.67	24.14
Country	30.00	16.67	25.86
Easy listening	36.67	4.17	20.69
Electronic dance music	46.67	16.67	32.76
Folk	36.67	20.83	31.03
Indie-alternative	53.33	33.33	44.83
Jazz	50.00	16.67	36.21
Latin	33.33	16.67	25.86
Oldies	40.00	25.00	37.93
Pop	56.67	12.50	39.66
Rap	46.67	16.67	34.48
Reggae	50.00	12.50	34.48
Religious	23.33	25.00	24.14
Rhythm & blues	43.33	33.33	41.38
Rock	73.33	62.50	70.69
Other	36.67	66.67	50.00

Q3: Percentage of Webcasters Streaming One or More Channels			
Number of channels streamed	Signed small webcaster agreement (N=30)	Did not sign small webcaster agreement (N=24)	All respondents (N=58)
1	66.67	87.50	74.14
2	10.00	4.17	10.34
4	3.33	4.17	3.45
6	0.00	4.17	1.72
9	3.33	0.00	1.72
14	3.33	0.00	1.72
18	3.33	0.00	1.72
19	3.33	0.00	1.72
50	3.33	0.00	1.72
138	3.33	0.00	1.72

Q4: Percentage of Webcasters Who Target Different Age Groups			
Age range	Signed small webcaster agreement (N=29)	Did not sign small webcaster agreement (N=23)	All respondents (N=54)
17 and younger	41.38	30.43	35.71
18 – 24	79.31	69.57	76.79
25 – 34	96.55	82.61	91.07
35 – 54	79.31	78.26	80.36
55 and over	31.03	47.83	39.29

Q5: Percentage of Webcasters Indicating That Listeners are Mostly Males, Mostly Females, or Both Males and Females

Sex of listeners	Signed small webcaster agreement (N=28)	Did not sign small webcaster agreement (N=23)	All respondents (N=55)
Mostly males	39.29	43.48	40.00
Mostly females	0.00	0.00	0.00
Both	60.71	56.52	60.00

Q6: Percentage of Webcasters Who Track Size of Audience

Signed small webcaster agreement (N=30)	Did not sign small webcaster agreement (N=24)	All respondents (N=55)
76.67	70.83	75.86

Q7: Size of audience. *Data are not reported due to unreliability.*

Q8: Percentage of Webcasters Reporting Increase or Decrease in Size of Audience Since January 2002

Size of audience	Signed small webcaster agreement (N=29)	Did not sign small webcaster agreement (N=24)	All respondents (N=54)
Increased	79.31	70.83	77.19
Decreased	3.45	12.50	7.02
Stayed the same	17.24	16.67	15.79

Q9: Percentage of Webcasters Currently Offering a Subscription Service		
Signed small webcaster agreement (N=29)	Did not sign small webcaster agreement (N=23)	All respondents (N=58)
16.67	12.50	13.79

Q10: Percentage of Webcasters Using Advertising on Web Site			
Use of advertising	Signed small webcaster agreement (N=29)	Did not sign small webcaster agreement (N=24)	All respondents (N=57)
Currently use	68.97	62.50	66.67
Don't use now, but did in the past	3.45	4.17	3.51
Don't use now and have never used	27.59	33.33	29.82

Q11: Percentage of Webcasters Using Different Types of Advertising[b]				
Type of advertising	Currently use	Used in past but don't use now	Have never used	Have never used but intend to use in the future*
Signed small webcaster agreement (N=21)				
Banner ads	90.48	0.00	9.52	50.00
Audio ads	66.67	4.76	19.05	50.00
Video ads	33.33	4.76	61.90	15.38
Other types of ads	33.33	4.76	61.90	0.00
Did not sign small webcaster agreement (N=16)				
Banner ads	75.00	12.50	12.50	0.00
Audio ads	81.25	6.25	12.50	50.00
Video ads	6.25	18.75	75.00	41.67
Other types of ads	18.75	0.00	81.25	0.00
All respondents (N=40)				
Banner ads	82.50	5.00	12.50	33.33
Audio ads	72.50	7.50	15.00	42.86
Video ads	22.50	10.00	67.50	29.63
Other types of ads	27.50	2.50	70.00	100.00
*This question was asked only of those respondents who answered that they "had never used" that type of advertising.				

[b]Questions 11 and 12 were answered only by webcasters who answered (Question 10) that they currently use advertising or used advertising in the past.

Q12: Percentage of Webcasters Using Different Ways to Sell Ads				
Ways advertising could be sold	Currently use	Intend to in the future	Don't do and don't intend to in future	Not applicable
Signed small webcaster agreement (N=20)				
Sold by an advertising agency	20.00	45.00	35.00	0.00
Sold by owners or employees of the station	95.00	5.00	0.00	0.00
Sold by owners or employees of parent company	10.00	0.00	30.00	60.00
Sold through a coalition of webcasters	20.00	45.00	35.00	0.00
Other ways	20.00	0.00	80.00	0.00
Did not sign small webcaster agreement (N=16)				
Sold by an advertising agency	25.00	31.25	37.50	6.25
Sold by owners or employees of the station	81.25	6.25	0.00	12.50
Sold by owners or employees of parent company	12.50	0.00	18.75	68.75
Sold through a coalition of webcasters	18.75	37.50	31.25	12.50
Other ways	12.50	6.25	75.00	6.25
All respondents (N=39)				
Sold by an advertising agency	23.08	41.03	33.33	2.56
Sold by owners or employees of the station	89.74	5.13	0.00	5.13
Sold by owners or employees of parent company	10.26	0.00	23.08	66.67
Sold through a coalition of webcasters	17.95	43.59	33.33	5.13
Other ways	15.38	2.56	79.49	2.56

Q13: Percentage of Webcasters Who Had Economic Transactions With Different Types of Businesses			
	Signed small webcaster agreement	Did not sign small webcaster agreement	All respondents
	10/28/1998 – 12/31/2002		
Type of business	(N=22)	(N=21)	(N=47)
Ad insertion company	9.09	28.57	17.02
Advertising agency	31.82	14.29	23.40
Audience aggregator for advertisers	22.73	4.76	12.77
Bandwidth provider (i.e., an ISP)	86.36	100.00	93.62
A music content provider	13.64	14.29	14.89
A corporate sponsor	27.27	19.05	21.28
A coalition of webcasters	0.00	19.05	8.51
A parent or sister company	45.45	23.81	34.04
Suppliers of merchandise (e.g., T-shirts)	40.91	33.33	40.43
Other types of businesses	50.00	38.10	42.55
	1/01/2003-present[c]		
Type of business	(N=29)	(N=24)	(N=57)
Ad insertion company	17.24	29.17	22.81
Advertising agency	17.24	25.00	21.05
Audience aggregator for advertisers	6.90	4.17	7.02
Bandwidth provider (i.e., an ISP)	89.66	95.83	91.23
A music content provider	10.34	8.33	10.53
A corporate sponsor	24.14	16.67	19.30
A coalition of webcasters	10.34	33.33	21.05
A parent or sister company	44.83	20.83	33.33
Suppliers of merchandise (e.g., T-shirts)	41.38	45.83	43.86
Other types of businesses	55.17	45.83	50.88

[c]We conducted interviews with small webcasters in November and December 2003. "Present" refers to the date of the interview.

Q14: Percentage of Webcasters Using Different Methods to Pay for Goods and Services			
	Signed small webcaster agreement	Did not sign small webcaster agreement	All respondents
	10/28/1998 – 12/31/2002		
Method of payment	(N=22)	(N=21)	(N=47)
Direct payment, that is, with cash or a check	100.00	100.00	100.00
Commissions	36.36	28.57	31.91
Revenue or profit sharing	18.18	4.76	12.77
Barter or other noncash exchange	45.45	52.38	51.06
Other ways	4.55	0.00	2.13
	1/01/2003-present[d]		
Method of payment	(N=29)	(N=24)	(N=57)
Direct payment, that is, with cash or a check	100.00	100.00	100.00
Commissions	41.38	29.17	35.09
Revenue or profit sharing	17.24	8.33	15.79
Barter or other noncash exchange	31.03	41.67	38.60
Other ways	3.45	4.17	3.51

[d]We conducted interviews with small webcasters in November and December 2003. "Present" refers to the date of the interview.

Q15: Percentage of Webcasters Who Reported Receiving Different Types of Goods and Services			
	Signed small webcaster agreement	Did not sign small webcaster agreement	All respondents
	10/28/1998 – 12/31/2002		
Goods and services	(N=22)	(N=21)	(N=47)
Free bandwidth	31.82	52.38	44.68
Reduced-price bandwidth	22.73	38.10	29.79
Free or reduced-price advertising for your webcasting service	18.18	23.81	21.28
Other goods	27.27	19.05	23.40
	1/01/2003-present[e]		
Goods and services	(N=28)	(N=24)	(N=56)
Free bandwidth	21.43	33.33	28.57
Reduced-price bandwidth	14.29	37.50	25.00
Free or reduced-price advertising for your webcasting service	10.71	20.83	16.07
Other goods	25.00	25.00	25.00

Q16: Percentage of Webcasters Reporting That Different Goods and Services Provide at Least 10% of Their Gross Revenue			
	Signed small webcaster agreement	Did not sign small webcaster agreement	All respondents
	10/28/1998 – 12/31/2002		
Goods and services	(N=21)	(N=21)	(N=46)
Advertising	57.14	38.10	45.65
Cash donations	23.81	28.57	26.09
Noncash donations	0.00	4.76	6.52
Merchandise sales	14.29	4.76	13.04
Other sources	28.57	4.76	15.22
	1/01/2003-present[e]		
Goods and services	(N=28)	(N=24)	(N=56)
Advertising	53.57	41.67	48.21
Cash donations	28.57	37.50	32.14
Noncash donations	0.00	8.33	7.14
Merchandise sales	14.29	12.50	16.07
Other sources	25.00	4.17	16.07

[e]We conducted interviews with small webcasters in November and December 2003. "Present" refers to the date of the interview.

Q17: Webcasters' Estimates of Their Gross Revenue			
	Signed small webcaster agreement	Did not sign small webcaster agreement	All respondents
	10/28/1998 – 12/31/2002		
	(N=20)	(N=19)	(N=41)
Mean	42,839	4,750	23,099
Minimum	0	0	0
Maximum	300,000	79,000	300,000
	1/01/2003-present[f]		
	(N=27)	(N=22)	(N=51)
Mean	32,394	4,024	18,886
Minimum	0	0	0
Maximum	300,000	72,000	300,000

[f]We conducted interviews with small webcasters in November and December 2003. "Present" refers to the date of the interview.

Q18: Webcasters' Estimates of Their Expenses			
	Signed small webcaster agreement	Did not sign small webcaster agreement	All respondents
	10/28/1998 – 12/31/2002		
	(N=20)	(N=18)	(N=40)
Mean	81,549	28,700	60,189
Minimum	499	300	300
Maximum	300,000	222,000	300,000
	1/01/2003-present[g]		
	(N=27)	(N=21)	(N=50)
Mean	36,607	42,496	42,156
Minimum	500	110	110
Maximum	250,000	500,000	500,000

[g]We conducted interviews with small webcasters in November and December 2003. "Present" refers to the date of the interview.

Q.19: Percentage of Webcasters Who Participated in the Negotiations That Led to the Small Webcaster Settlement Act		
Signed small webcaster agreement (N=28)	Did not sign small webcaster agreement (N=24)	All respondents (N=56)
28.57	12.50	23.21

Q20: Percentage of Webcasters Who Elected to Pay Royalties to Performers Under the Terms of the Small Webcaster Agreement		
Signed small webcaster agreement (N=28)	Did not sign small webcaster agreement (N=23)	All respondents (N=55)
92.86	0	54.55

Q21: Month and Year Election Forms Submitted to SoundExchange. *Data are not reported due to unreliability.*

Q22: Reasons Webcasters Elected to Pay Royalties under the Terms of the Small Webcaster Agreement (N=26)*	
Reasons for electing to pay royalties	Percent
The royalty rates for performers under the small webcaster agreement seemed reasonable.	26.67
Thought there was no choice but to sign the election form.	86.67
The implementation of your business plan required the certainty of knowing performer royalty obligations.	63.33
Wanted to take advantage of the "delay of obligation" option, which allows a small webcaster to delay performer royalty payments.	26.67
Other reasons	66.67
*This question was answered only by those respondents who elected to pay royalties under the agreement.	

Q23: Reasons Webcasters Elected to Not Pay Royalties Under the Terms of the Small Webcaster Agreement (N=23)*	
Reasons for electing to not pay royalties	Percent
The performer royalties under the agreement seemed too high.	73.91
Arranged a private agreement with performers.	17.39
Not familiar with the process and did not know this was an option.	43.48
Waiting to see if the rate would change.	47.83
Only stream music by independent artists and labels.	21.74
Terms and conditions set by the Library of Congress were more favorable.	8.70
Other reasons	73.91
*This question was answered only by those respondents who elected to not pay royalties under the agreement.	

Q24: Webcasters' Estimates of Revenues Earned by Third Parties			
	Signed small webcaster agreement	Did not sign small webcaster agreement	All respondents
	10/28/1998 – 12/31/2002		
	(N=10)	(N=13)	(N=27)
Mean	300	81	150
Minimum	0	0	0
Maximum	2,000	500	2,000
	1/01/2003-present[h]		
	(N=15)	(N=15)	(N=34)
Mean	140	143	125
Minimum	0	0	0
Maximum	2,000	1,000	2,000

[h]We conducted interviews with small webcasters in November and December 2003. "Present" refers to the date of the interview.

Q25: Percentage of Webcasters Who Believe Webcaster or Recipient of Revenue Should be Responsible for Paying Royalties on Third Party Revenue			
	Signed small webcaster agreement (N=29)	Did not sign small webcaster agreement (N=23)	All respondents (N=53)
The webcaster	11.54	21.74	15.09
The person or company that received the revenue	61.54	60.87	64.15
Other	26.92	17.39	20.75

GAO Contacts and Staff Acknowledgments

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