

Eateries seek a free song

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By Richard Miniter

Can you name that tune? The background music you hear in your favorite restaurant may not seem like much, but if you're a songwriter, it's money in the bank. But not for long. The National Restaurant Association, which lobbies for the nation's eateries, is pushing a little-noticed bill through Congress that would strip songwriters of the right to charge restaurants for the use of copyrighted songs. Amazingly, this powerful lobby is close to getting its way. In effect, the restaurants want Congress to give them the private property of songwriters. Republicans have long decried government seizure of private land in the name of protecting the environment or enforcing other government regulations. But the GOP is now engaging in the very activity it once sharply denounced. This is not an abstract issue for songwriters. Most of the small income they receive is from song royalties. What about the rich recording deals and concert fees? That money is made by singers and musicians, not songwriters. Many songwriters are poor. "Most of them are probably waiters working in the very restaurants that are trying to cheat them," says Ben Palumbo, a lobbyist for the American Society of Composers, Authors and Publishers, one of the nation's largest music licensing groups. Restaurateurs sing a different tune. They say the fees are too high. They add that most restaurants just play local radio stations, which have already paid royalties. And if a restaurant owner in Kansas wants to challenge the fees, he must travel to a federal district court in Manhattan, a time-consuming and costly process. The arguments fail to hold up. The restaurant association's own records show that the average restaurant spends less than 1 percent of its monthly budget on song licensing fees. ASCAP and others also provide much reduced fees for cash-strapped restaurants. Radio stations pay only for the right to broadcast the music for private listening, not public entertainment. And the issue of a distant Manhattan court could be addressed with a much narrower bill. Logic aside, the restaurants have political muscle. Every congressional district is dotted with thousands of restaurant owners who can hold fund-raisers and write campaign checks. Also the restaurant association supported the GOP long before it controlled Congress, a point not lost on the House leadership. Meanwhile, the songwriters are concentrated in a few congressional districts (most are in New York City, Nashville and Los Angeles) and tend to send campaign checks to Democrats. Though it may seem politically clever, by auctioning off its principles the GOP will suffer in the long run. Republicans came to power in 1994 with the support of hundreds of grass-roots property-rights groups that were fighting federal efforts to seize their lands through regulation. What will the GOP say when the Democrats control Congress and seek new restrictions on private property? Why are the rights of songwriters less valuable than those of Western cattle ranchers and Eastern developers? An amendment by Rep. F. James Sensenbrenner of Wisconsin, which allows most restaurants to play copyrighted music for free, recently passed the House by a large margin. Only the Senate can stop it now.