



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559-6000

NOTICE WITH REQUEST FOR COMMENT

ASCERTAINMENT OF CONTROVERSY FOR 1990 AND OTHER CABLE ROYALTY FUNDS

The following excerpt is taken from Volume 59, Number 240 of the Federal Register for Thursday, December 15, 1994 (pp. 64714-64715)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 94-3 CARP-90CD]

Ascertainment of Controversy for 1990 and Other Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice with request for comment.

SUMMARY: The Copyright Office directs all claimants to royalty fees collected for secondary transmission by cable systems in 1990 to submit comments as to whether a controversy exists as to the distribution of this fund. The Office also seeks comment as to whether it should consolidate the distribution of the 1990 cable royalties with other cable royalty funds collected in subsequent years. For those claimants intending to participate in the distribution proceeding, the Office requests that they file a Notice of Intent to Participate.

DATES: Written comments and Notices of Intent to Participate are due January 20, 1995.

ADDRESSES: If sent by mail, an original and five copies of written comments and Notice of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand-delivered, an original and five copies of written comments and Notice of Intent to Participate should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT:

Marilyn J. Kretsinger, Acting General Counsel, Copyright Arbitration Royalty Panel, (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION:

I. Background

Each year, cable systems submit royalties to the U.S. Copyright Office for a statutory license to retransmit broadcast signals to their subscribers. 17 U.S.C. 111. These royalties are, in turn, distributed to the appropriate copyright owners by means of a cable royalty distribution proceeding. These proceedings were formerly conducted by the Copyright Royalty Tribunal. However, on December 17, 1993, the Tribunal was abolished. Royalty distribution proceedings are now conducted by *ad hoc* copyright arbitration royalty panels (CARPs) convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993, P.L. 103-198, 107 Stat. 2304 (1993).

At the time Congress was considering the abolition of the Tribunal, the Tribunal had already begun a proceeding to distribute the cable royalties that were collected in 1990. The 1990 cable royalty distribution proceeding began on April 2, 1993. 58 FR 17387 (1993). The proceeding did not, however, reach a conclusion. In light of the imminent passage of the Copyright Royalty Reform Act of 1993, the Tribunal suspended the 1990 cable royalty distribution proceeding. *Order*, dated October 14, 1993.

II. Copyright Office Actions in 1994

On January 18, 1994, the Copyright Office issued a notice of proposed

rulemaking to adopt rules to govern the new CARP proceedings. Among other things, we considered the question of how to handle proceedings that were suspended because of the abolition of the Tribunal. The Office determined that matters left pending at the Tribunal would not be taken up where they have been left off, but would have to be begun anew. 59 FR 2551 (1994). This policy determination was confirmed and restated when we issued our interim rules on May 9, 1994. 59 FR 23954 (1994).

During the comment period on our May 9 interim rules, the Office met with the cable copyright claimants who stated that they preferred to restart the 1990 cable distribution proceeding only after final rules were adopted and in place. Meeting, held August 11, 1994. Final rules governing CARP proceedings were published in the Federal Register on December 7, 1994. 59 FR 63025.

III. This Notice

Accordingly, the Library of Congress and the Copyright Office, having adopted final CARP rules, are hereby taking the first step to start the 1990 cable royalty distribution proceeding.

The Library of Congress and the Copyright Office direct all claimants¹ to royalty fees collected in 1990 for secondary transmissions by cable systems to submit comments as to whether a controversy exists as to the distribution of this fund. If any controversies exist, the claimant should specifically name the claimants

¹ "All claimants" include even those claimants, such as National Public Radio, who reached settlements during the suspended 1990 cable distribution proceeding held by the Tribunal. Since we are starting this proceeding anew, we want to know whether those settlements apply to the new proceeding as well.

with whom he or she has a controversy, and whether it is a Phase I or Phase II controversy. If there are both Phase I and Phase II controversies, we also solicit comment as to how these proceedings should be scheduled, sequentially or concurrently, and whether separate panels should be convened if they are to be scheduled concurrently.

The Library and the Office also seek comment from all cable claimants, 1990-1993, as to whether we should consolidate the distribution of the 1990 cable royalties with other cable royalty funds collected in subsequent years. Royalties have been collected during 1991, 1992, and 1993, and could be made the subject of the same proceeding as the 1990 cable royalty proceeding if that would serve the public interest. If claimants want to consolidate this proceeding with that of subsequent years, we would also need to know the extent of the Phase I and Phase II controversies that exist for the subsequent years, as well.

Finally, the Office is requesting claimants who wish to participate in the 1990 cable distribution proceeding to file a Notice of Intent to Participate. If the Office decides, after receiving comments, to consolidate the 1990 cable distribution with one or more subsequent years, we will issue at that time a request for Notices of Intent to Participate for those subsequent years.

An original and five copies of the claimants' comments and Notice of Intent to Participate should be filed no later than January 20, 1995, to the address noted above. Claimants should use this time period to make diligent efforts at settlement. If a claimant does not report a controversy or file a notice of intent to participate, it will be presumed that the claimant has settled, and has no controversies with the other claimants.

Dated: December 8, 1994

Marilyn J. Kretsinger
Acting General Counsel

Approved:
James H. Billington
The Librarian of Congress

[FR Doc. 94-30855 Filed 12-14-94; 8:45am]

Billing Code: 1410-33-P