

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. National Commission on Libraries and Information Science is holding an open business meeting to discuss Commission programs and administrative matters. Topics will include, the discussion of the role of libraries in disaster preparedness and response in light of the September 11th terrorist attack. Other topics will include consideration of a research and development initiative on library and information services for individuals with disabilities, and the Commission's role in planning for an international conference on information literacy.

**DATE AND TIME:** NCLIS Business Meeting—December 5, 2001, 2 p.m. to 5 p.m. and December 6, 2001, 9 to 12 p.m.

**ADDRESSES:** Conference Room, NCLIS Office, 1110 Vermont Avenue, NW., Suite 820 Washington, DC 20005.

**STATUS:** Open meeting.

**FOR FURTHER INFORMATION CONTACT:** Rosalie Vlach, Director, Legislative and Public Affairs, U.S. National Commission on Libraries and Information Science, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail [rvlak@nclis.gov](mailto:rvlak@nclis.gov), fax 202-606-9203 or telephone 202-606-9200.

**SUPPLEMENTARY INFORMATION:**

The meeting is open to the public, subject to space availability. To make special arrangements for physically challenged persons, contact Rosalie Vlach, Director, Legislative and Public Affairs, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail [rvlak@nclis.gov](mailto:rvlak@nclis.gov), fax 202-606-9203 or telephone 202-606-9200.

Dated: November 16, 2001.

**Robert S. Willard,**

*NCLIS Executive Director.*

[FR Doc. 01-29064 Filed 11-16-01; 11:41 am]

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## LIBRARY OF CONGRESS

### Copyright Office

[Docket No. 2001-8 CARP CD 98-99]

### Distribution of 1998 and 1999 Cable Royalty Funds

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Request for comments and schedule.

**SUMMARY:** The Copyright Office of the Library of Congress is announcing the

schedule for a Phase I CARP proceeding to distribute 1998 cable royalty funds collected under section 111, 17 U.S.C. In addition, the Office is seeking comment as to the advisability of consolidating the 1998 Phase I distribution proceeding with the Phase I distribution proceeding for the 1999 cable royalty funds.

**DATES:** Comments on consolidation are due no later than December 20, 2001.

**ADDRESSES:** If hand delivered, parties shall deliver an original and five copies of all comments on consolidation to: Office of the Copyright General Counsel, James Madison Memorial Building, First and Independence Avenue, SE., Room LM-403, Washington, DC 20540. If sent by mail, comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** Each year cable systems submit royalties to the Copyright Office for the retransmission to their subscribers of over-the-air broadcast signals. These royalties are, in turn, distributed in one of two ways to copyright owners whose works were included in a retransmission of an over-the-air broadcast signal and who timely filed a claim for royalties with the Copyright Office. The copyright owners may either negotiate the terms of a settlement as to the division of the royalty funds, or the Librarian of Congress may convene a Copyright Arbitration Royalty Panel ("CARP") to determine the distribution of the royalty fees that remain in controversy. See 17 U.S.C. chapter 8.

On September 6, 2000, the Library of Congress published a Notice in the **Federal Register** seeking comment as to the existence of controversies for the distribution of 1998 cable royalties. 65 FR 54077 (September 6, 2000). The parties to the distribution reported both Phase I and Phase II controversies and filed their Notices of Intent to Participate. On October 2, 2001, the Library published a Notice in the **Federal Register** seeking comments as to the existence of controversies for the distribution of 1999 cable royalties. 66 FR 50219 (October 2, 2001). The parties to this distribution reported Phase I and Phase II controversies as well and filed their Notices of Intent to Participate.

Both proceedings are now eligible for proceedings before a CARP.

### Request for Comments

It is the preliminary view of the Library that consolidating the 1998 cable Phase I distribution proceeding with the 1999 cable Phase I distribution proceeding will not overburden a CARP and will promote administrative efficiency. We seek comment as to whether consolidation is the best course of action and, if not, how the Library should proceed with the 1999 Phase I cable distribution.

### Schedule of the Proceeding

The Library is announcing the schedule of the proceeding for the Phase I distribution of 1998 cable royalties. If, after consideration of the comments, the Library determines that consolidation is appropriate, the Library will issue an Order to that effect and the schedule described below will apply to the consolidated proceeding.

#### A. Commencement of the Proceeding

A royalty distribution proceeding under part 251 of 37 CFR is divided into two essential phases. The first is the 45-day precontroversy discovery phase, during which the parties exchange their written direct cases, exchange their documentation and evidence in support of their written direct cases, and engage in the pre-CARP motions practice described in § 251.45. The other phase is the proceeding before the CARP itself, including the presentation of evidence and the submission of proposed findings by all of the participating parties. The proceeding before the CARP may be in the form of hearings or, in accordance with the requirements of § 251.41(b) of the rules, the proceeding may be conducted solely on the basis of written pleadings.

#### B. Precontroversy Discovery Schedule and Procedures

Any party that has filed a Notice of Intent to Participate in the Phase I 1998 cable distribution proceeding is entitled to participate in the precontroversy discovery period. Each party may request of an opposing party nonprivileged documents underlying facts asserted in the opposing party's written direct case. The precontroversy discovery period is limited to discovery of documents related to written direct cases and any amendments made during the period.

The following is the precontroversy discovery schedule:

Action	Deadline
Filing of Written Direct Cases Requests for Underlying Documents Related to Written Direct Cases.	April 1, 2002. April 10, 2002.
Responses to Requests for Underlying Documents.	April 17, 2002.
Completion of Document Production.	April 23, 2002.
Follow-up Requests for Underlying Documents.	April 29, 2002.
Responses to Follow-up Requests.	May 3, 2002.
Motions Related to Document Production.	May 8, 2002.
Production of Documents in Response to Follow-up Requests.	May 10, 2002.
All Other Motions, Petitions, and Objections.	May 15, 2002.

The precontroversy discovery period, as specified by § 251.45(b) of the rules, will begin on April 1, 2002, with the filing of written direct cases by each party. Each party in this proceeding who has filed a Notice of Intent to Participate *must* file a written direct case on the date prescribed above. Failure to submit a timely filed written direct case will result in dismissal of that party's claim. Parties must comply with the form and content of written direct cases as prescribed in 37 CFR 251.43. Each party to the proceeding must deliver a complete copy of its written direct case to each of the other parties to the proceeding, as well as file a complete copy with the Copyright Office by close of business on April 1, 2002, the first day of the 45-day period.

After the filing of the written direct cases, document production will proceed according to the above-described schedule. Each party may request underlying documents related to each of the other parties' written direct cases by April 10, 2002, and responses to those requests are due by April 17, 2002. Documents which are produced as a result of the requests must be exchanged by April 23, 2002. It is important to note that all initial document requests must be made by the April 10, 2002 deadline. Thus, for example, if one party asserts facts that expressly rely on the results of a particular study that was not included in the written direct case, another party desiring production of that study must make its request by April 10, 2002; otherwise, the requesting party is not entitled to production of the study.

The precontroversy discovery schedule also establishes deadlines for follow-up discovery requests. Follow-up requests are due by April 29, 2001, and responses to those requests are due by May 3, 2001. Any documentation

produced as a result of a follow-up request must be exchanged by May 10, 2002. An example of a follow-up request would be as follows. In the above example, one party expressly relies on the results of a particular study which is not included in its written direct case. As noted above, a party desiring production of that study or survey must make its request by April 10, 2002. If, after receiving a copy of the study, the reviewing party determines that the study heavily relies on the results of a statistical survey, it would be appropriate for that party to make a follow-up request for production of the statistical survey by the April 29, 2002, deadline. Again, failure to make a timely follow-up request would waive the requesting party's right to request production of the survey.

In addition to the deadlines for document requests and production, there are two deadlines for the filing of precontroversy motions. Motions related to document production must be filed by May 8, 2002. Typically, these motions are motions to compel production of requested documents for failure to produce them, but they may also be motions for protective orders. Finally, all other motions, petitions and objections must be filed by May 15, 2002, the final day of the 45-day precontroversy discovery period. These motions, petitions, and objections include, for example, petitions to dispense with formal hearings under § 251.41(b).

Due to the time limitations between the procedural steps of the precontroversy discovery schedule, we are requiring that all discovery requests and responses to such requests be served by hand or fax on the party to whom such response or request is directed. Filing of requests and responses with the Copyright Office is neither required nor encouraged.

Filing and service of all precontroversy motions, petitions, objections, oppositions, and replies shall be as follows. In order to be considered properly filed with the Librarian and/or Copyright Office, all pleadings must be delivered to the Copyright Office no later than 5 p.m. of the filing deadline date. Parties may deliver the pleadings to: Office of the Register of Copyrights, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC 20540; or alternatively, parties may send their pleadings by Federal Express to: Copyright Arbitration Royalty Panel (CARP), CARP Specialist, (Tel. 202-707-8380), Federal Express, 208 Second Street, SE., Washington, DC 20003, provided that

the filing reaches the Copyright Office by the deadline. The Office cautions parties to use only the Federal Express address listed in this Order, to include the telephone number of the Office, and to direct the package to the attention of the CARP Specialist. The Federal Express office will notify the Copyright Office upon receipt of a properly addressed package and the Copyright Office will make arrangements to pick up the package the same day. Under no circumstances will the Office make arrangements to retrieve a package from any other Federal Express location or track a misdirected package. Each party bears the responsibility for insuring that the filings are in the Copyright Office by the deadline.

The form and content of all motions, petitions, objections, oppositions, and replies filed with the Office must be in compliance with §§ 251.44(b)-(e). As provided in § 251.45(b), oppositions to any motions or petitions must be filed with the Office no later than seven business days from the date of filing of such motion or petition. Replies are due five business days from the date of filing of such oppositions. Service of all motions, petitions, objections, oppositions, and replies must be made on counsel or the parties by means no slower than overnight express mail on the same day the pleading is filed.

### C. Initiation of Arbitration

The 180-day arbitration period will be initiated on July 15, 2002. The schedule of the arbitration proceeding will be established by the CARP after the three arbitrators have been selected.

Dated: November 15, 2001.

**David O. Carson,**  
*General Counsel.*

[FR Doc. 01-28996 Filed 11-19-01; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Office

[Docket No. 2001-2 CARP DTNSRA and  
Docket No. 2001-1 CARP DSTR A 2]

### Digital Performance Right in Sound Recordings Rate Adjustment Proceedings

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of inquiry and request for notices of intention to participate.

**SUMMARY:** The Copyright Office of the Library of Congress is requesting comments as to whether the rate adjustment proceeding to determine reasonable rates and terms for the public