

# Announcement

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

## COPYRIGHT OFFICE TO HOLD HEARING ON COMPULSORY LICENSE FOR CABLE SYSTEMS

The following excerpt is taken from Vol. 42, No. 55 of the Federal Register for Tuesday, March 22, 1977 (pp. 15431-32).

Please note that written requests to present testimony are due by April 4th; that written statements of testimony are requested by April 8th, and that the hearing is scheduled for April 12th and 13th.

### LIBRARY OF CONGRESS

Copyright Office

[ 37 CFR Part 201 ]

[ Docket RM 77-2 ]

### COMPULSORY LICENSE FOR CABLE SYSTEMS

#### Advance Notice of Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Advance Notice of Proposed Rulemaking.

**SUMMARY:** This advance notice of proposed rulemaking is issued to advise the public that the Copyright Office of the Library of Congress is considering adoption of regulations to implement a section of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, which provides a compulsory license for secondary transmissions of copyrighted works by cable systems. This notice announces and invites participation in a public hearing intended to elicit comment, views and information which will assist the Copyright Office in considering alternatives and formulating tentative regulations to be later issued as proposed rules for additional comment.

**DATES:** The hearing will be held on April 12 and 13, 1977, commencing at 9:30 a.m. on April 12.

Members of the public desiring to testify should submit written requests to present testimony before April 4, 1977, to the address set forth below. The request should clearly identify the individual or group requesting to testify and amount of time desired.

**ADDRESSES:** The hearing will be held in Room 910, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Requests to present testimony should be addressed to: *Office of the General Counsel*, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559.

#### FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (703-557-8731).

**SUPPLEMENTARY INFORMATION:** Section 111(c) of the first section of Pub. L. 94-553 establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to, among other conditions, the requirement that the cable system comply with certain filing and accounting provisions. Under section 111(d)(1) of the Act:

(1) Any system that is in operation on April 17, 1977 must record the following information in the Copyright Office no later than April 18, 1977:

(a) "the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it"; and

(b) "the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system". (2) Any system that begins operation after April 17, 1977, must record the specified information (quoted in the preceding paragraph) at least one month before the date operations commence. (As a transitional exception, the recording deadline for any system that starts operating between April 18, 1977, and May 18, 1977, is April 18, 1977.)

(3) After making the initial record (described in the preceding two paragraphs), the cable system must then make supplemental records "within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes."

(4) In addition to the initial and supplemental records (described in the preceding three paragraphs), the cable system must record "thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause."

In addition, section 111(d)(2)(A) of the Act requires that cable systems exercising the compulsory license file, semi-annually and in accordance with Copyright Office regulations:

a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programming that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or ad-

dition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage;

together with royalties computed as set forth in other paragraphs of the section. In discussing this requirement of "semi-annual" accountings, the Report of the Judiciary Committee of the House of Representatives states (H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. at 95): "The dates for filing such statements of account and the six-month period which they are to cover are to be determined by the Register of Copyrights after consultation with the Copyright Royalty [Tribunal]". Distribution of the royalties is to be made to specified classes of copyright owners who file claims with the Copyright Royalty Tribunal during the month of July in each year.

By notice published on March 18, 1977 (42 FR 15065), the Copyright Office adopted an interim regulation § 201.11 pertaining to the filing by cable systems of the information quoted above in numbered paragraphs (1), (2), and (3). With this notice we are now initiating our consideration of final regulations to implement the filing and accounting provisions of section 111(d) of the Act as a whole.

Testimony is invited on all considerations relevant to the formulation of regulations referred to in sections 111(d) (1) and 111(d) (2) of the Act. These considerations include, but are not limited to, the following questions:

(1) Should interim regulation § 201.11 be modified for cable systems commencing operations or undergoing ownership or signal carriage changes in the future?

(2) What relationship should be established between the "further information" clause of section 111(d) (1) and the accounting provisions of section 111(d) (2)? Should the Copyright Office implement the final clause of section 111(d) (1) by requiring the filing of information other than that required under interim regulation § 201.11 and/or the accounting provisions? If so, what information should be required, and with what frequency should it be filed?

(3) In order to assure adequate time for cable systems to prepare statements of account and for copyright owners to review the statements and prepare and file claims to royalties during the month of July, what dates should be established for the filing of accounts and what six-month periods should they cover?

(4) What "other data" should be included in statements of account and special statements of account under section 111(d) (2)? Are there special issues to be considered in connection with the terms "number of channels", "number of subscribers", "gross amount", and "basic service" as used in paragraph (A) of that section?

(5) Is the definition of "cable system" in section 111(f) of the Act adequate for purposes of the recording and accounting provisions? For example, where two or more cable systems in non-contiguous communities operate from one head-end, shall they be considered as one system

for these purposes? Where an operator maintains facilities in separately identifiable non-contiguous communities, what is "the cable system"? In the context of configurations or interconnections employing "central" and "local" or "hub" head-end, what is the "cable system" and "one head-end"?

(6) How should the reference to including the names and locations of "all primary transmitters whose transmissions were further transmitted by the cable system" in statements of account under section 111(d) (2) (A) be treated for systems carrying the entire FM band? Are there special issues to be considered (pertaining to both identification and classification of signals) in the event of cable system retransmission of signals received from translator or similar stations?

(7) Considering, among other factors, that section 111(d) (2) of the Act requires a special statement of account for substituted programming, what significance should be attributed to differences between the phrase "all primary transmitters whose transmissions were further transmitted by the cable system" appearing in the first clause of section 111(d) (2) (A) and the phrase "the primary transmitter or primary transmitters whose signals are regularly carried by the cable system" in section 111(d) (1)? What differences exist, if any (a) between the primary transmitters to be identified in statements of account and special statements of account, respectively, under section 111(d) (2); (b) between those primary transmitters and the primary transmitters to be identified under section 111(d) (1)?

(8) To what extent, if any, should the Copyright Office examine and enter into correspondence concerning the contents of statements of account with respect to (a) clerical and mathematical accuracy; (b) compliance on their face with the requirements of section 111(d) (2), including the appropriate computations required by subclauses (B), (C), or (D); (c) conformance between the statement of account and the total amount of the accompanying deposit of royalties; (d) conformance between the statement of account and the information already filed by the cable system under section 111(d) (1); and (e) any other matters?

(9) Should the Copyright Office impose a fee under section 708(a) (11) for the handling and recordation of notices and statements of account under paragraphs (1) and (2) of section 111(d)?

(10) Should the Copyright Office provide printed forms for the filing of statements of account? If so, should their use by cable systems be mandatory or optional? What records should the Copyright Office make and maintain on the basis of these statements?

#### WRITTEN STATEMENTS

All witnesses are requested to provide 10 copies of a written statement of their testimony to the Office of the General Counsel, at the address given above, by 4 p.m. on April 8, 1977.

The record of the proceedings will be kept open until May 13, 1977 for receipt of written supplemental statements. U.S.C. § 207; and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553: sections 111; 702).

Dated: March 18, 1977.

BARBARA RINGER,  
Register of Copyrights.

Approved:

WILLIAM J. WELSH,  
Acting Librarian of Congress.

[FR Doc. 77-8580 Filed 3-21-77; 8:45 am]