

Announcement

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

NOTICE OF INQUIRY

COPYRIGHT OFFICE REQUESTS COMMENTS REGARDING PERFORMANCE RIGHTS IN COPYRIGHTED SOUND RECORDINGS

The following excerpt is taken from Volume 42, No. 81 of the Federal Register for Wednesday, April 27, 1977 (pp. 21527-28).

LIBRARY OF CONGRESS

Copyright Office

[S 77-8]

PERFORMANCE RIGHTS IN SOUND RECORDINGS

Notice of Inquiry

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of inquiry.

SUMMARY: This notice of inquiry is issued to advise the public that the Copyright Office of the Library of Congress is preparing a report to Congress under section 114(d) of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, pertaining to performance rights in copyrighted sound recordings. This notice is intended to elicit public comment, views, and information which will assist the Copyright Office in considering alternatives, formulating a report, and making legislative recommendations, if any. Specific areas of inquiry are noted below; related observations are welcome.

DATES: Initial comments should be received on or before May 31, 1977. Reply comments should be received on or before June 15, 1977.

ADDRESS: Interested persons should submit five copies of their written comments to: Harriet L. Oler, Senior Attorney, Office of the General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559.

[FOR FURTHER INFORMATION CONTACT: *]

Harriet Oler, Senior Attorney, General Counsel's Office, Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

SUPPLEMENTARY INFORMATION: Section 114 of the newly enacted copyright law, Pub. L. 94-553, specifies that the exclusive rights of the owner of copyright in a sound recording are limited to the rights to reproduce the sound recording in copies or phonorecords, to prepare derivative works based on the sound recording and to distribute copies or phonorecords of the sound recording to the public. Paragraph (a) of section 114 states explicitly that the owner's rights "do not include any right of performance under section 106(4)."

Congress had considered the arguments in favor of establishing a limited performance right, in the form of a compulsory license, for copyrighted sound recordings but concluded that the issue required further study. Paragraph (d) of section 114 directs the Register of Copyrights to consult with various interests in the broadcasting, recording, motion picture and entertainment industries; arts organizations; and representatives of copyright owners, organized labor and performers, and to report to Congress by January 3, 1978 whether Section 114 should be amended to provide for performers and copyright owners any performance rights in such material. The report is to describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any.

To assist the Copyright Office in formulating the report and recommendation, public comment is invited on the subject of performance rights in sound recordings. Comment is specifically requested on the following questions:

(1) What are the constitutional and legal constraints and problems arising from a performance royalty in sound recordings?

(2) What are the arguments for and against performance royalty in sound recordings? What projected economic effect would it have on performers, record companies, broadcasters, cable systems, owners of copyright in musical compositions, background music services, jukebox operators, record consumers and other interested parties?

(3) In the event that a performance right is enacted, who should enjoy it? If both record producers and performers enjoy it, what royalty split would be advisable?

(4) If a performance royalty is enacted, what mechanism should be established to implement it? Are voluntary negotiations possible and/or preferable? Would a compulsory licensing system work? If so, who should determine the rates, who should distribute the proceeds and how should the beneficiaries be identified? What role, if any, should the Copyright Office play?

Copies of all comments received will be available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office, Room No. 101, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

(Title 17 of the United States Code as amended by Pub. L. 94-553: Sec. 114.)

Dated: April 21, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTEIN,
Librarian of Congress.

[FR Doc. 77-12057 Filed 4-26-77; 8:45 am]

* Omitted in Federal Register edition .