

Announcement

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

NOTICE OF REPORT

PERFORMANCE RIGHTS IN SOUND RECORDINGS

The following excerpt is taken from Volume 43, No. 7 of the Federal Register for Wednesday, January 11, 1978 (pp. 1655-6).

[1410-03]

LIBRARY OF CONGRESS

[Docket S 77-6-C]

PERFORMANCE RIGHTS IN SOUND RECORDINGS

Report

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of report.

SUMMARY: Section 114(d) of Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law, directs the Register of Copyrights to study and report to Congress whether section 114 should be amended to provide performance rights in sound recordings. The purpose of this notice is to advise the public that the report of the Register of Copyrights has been transmitted to Congress and is available for public inspection, and that addenda consisting of independently contracted studies, supplemental analyses, a bibliography, and the Office's specific legislative recommendations, will be submitted in February 1978.

FOR FURTHER INFORMATION CONTACT:

Harriet L. Oler, Senior Attorney, Office of the General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8737.

SUPPLEMENTARY INFORMATION:

The newly revised copyright law 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. Section 114(a) expressly excludes any exclusive right to perform publicly copyrighted sound recordings.

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 describe the views of major interested parties and the status of performance rights in foreign countries. The report may also present specific legislative or other recommendations, if any. On January 3, 1978, the statutory deadline, the Office submitted to Congress a report summarizing and analyzing data relevant to the performance rights question. The following letter of transmittal, addressed to the Speaker of the House of Representatives and the President of the Senate, describes the submission and the proposal to submit addenda consisting of independently contracted studies, supplemental analyses, and legislative recommendation, in February 1978.

JANUARY 3, 1978.

DEAR MR. PRESIDENT:

DEAR MR. SPEAKER:

I am pleased to submit with this letter the report of the Register of Copyrights, prepared in response to the mandate contained in section 114(d) of the newly revised copyright law, Public Law 94-553.

The new statute expressly excludes performance rights for sound recordings. Instead, it requests the Register of Copyrights to study the problem and, after consultation with various interested groups, report on whether Federal copyright legislation providing performance rights for sound recordings should be enacted. Under section 114(d), the Register's 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."

The Copyright Office has sought to conduct as thorough and objective a study of all aspects of this problem as possible. Our report, and the appendixes to it, contain data and analyses dealing with various constitutional and legal issues, earlier attempts to secure legislation in the field, the testimony and written comments of interested parties, the potential economic effects of performance royalty legislation, existing

foreign systems, and international considerations, including the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. We have attempted to provide comprehensive coverage and documentation of these aspects of our study, in an effort to establish a solid legal and factual basis for Congressional consideration of the question.

Because of a variety of time pressures, including the Copyright Office's need to implement the new copyright law on January 1, 1978, we have not yet been able to complete certain aspects of the report or to prepare a comprehensive set of "specific legislative . . . recommendations, if any." With your permission, therefore, we propose to prepare and submit the following addenda to the report before the end of February, 1978: (1) a report, prepared by an independent legal consultant, of labor union involvement with performance rights in sound recordings over the past thirty years; (2) a response, by the independent economic consultant who prepared the economic analysis included in the report, to the public comments received on that analysis; (3) a bibliography of works dealing with performance rights in sound recordings; and (4) a statement by the Register of Copyrights summarizing the views of the Copyright Office on the various legal and economic issues raised in the report and containing specific legislative recommendations.

The issue of whether to enact performance rights for sound recordings has been debated by parties, courts, national legislatures, and intergovernmental bodies in various state, federal, foreign, and international forums for more than forty years. It was one of the most hotly contested issues in the recent program for general revision of the federal copyright law, and it remains highly controversial. The Copyright Office trusts that the data in this report will provide a basis for Congressional consideration of the legal and economic questions concerning performance rights, and will assist Congress in making a definitive decision on this important question.

Sincerely yours,

BARBARA RINGER,
Register of Copyrights.
DANIEL J. BOORSTIN,
Librarian of Congress.

Any further submissions will be announced in the FEDERAL REGISTER.
Copies of the Register's report 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, Va., telephone number 703-557-8700.

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

Dated: January 3, 1978.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc. 78-647 Filed 1-10-78; 8:45 am]