



ANNOUNCEMENT

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

EXTENSION OF COMMENT PERIOD

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INQUIRY OF DEFINITION OF CABLE SYSTEMS

The following excerpt is taken from Volume 53, Number 97 of the Federal Register for Thursday, May 19, 1988 (pp. 17962-17963)

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 86-7A]

Extension of Comment Period; Inquiry of Definition of Cable Systems

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

SUMMARY: The Copyright office is re-opening for additional public comment its Notice of Inquiry (RM 86-7) into issues relating to the definition of cable systems for purposes of 17 U.S.C. 111. The Office is broadening the scope of its Inquiry to include issues relating to the eligibility of satellite carriers to operate under the section 111 cable compulsory license.

DATE: Comments should be received on or before July 18, 1988.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail to: Library of Congress, Department 100, Washington, DC 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559. Telephone (202) 287-8380.

SUPPLEMENTARY INFORMATION: On October 15, 1986, the Copyright Office in a Notice of Inquiry (51 FR 36705) invited public comment on the definition of the term "cable system" as it concerns the operation of the compulsory licensing mechanism in title 17 U.S.C. 111, the Copyright Act of 1976 Comments were invited through December 15, 1986, and reply comments through January 13, 1987. The comment period was reopened from August 3, 1987, until September 2, 1987 (52 FR 28731), so that the public might respond to four comments received by the Copyright after the closing of the initial comment and reply period.

Since the closing of the second comment period in this Inquiry, the Copyright Office has received statements* of account and royalty fees for the first accounting period of 1987 deposited by two satellite carriers. These filings raise† the question of whether a satellite carrier that retransmits broadcast signals nationwide to home satellite earth station owners is a "cable system" eligible for a cable compulsory license pursuant to section 111. The Office is reopening the comment period in this Inquiry on the definition of "cable system" to receive the benefit of public commentary on that issue prior to deciding whether to amend its regulations at 37 CFR 201.11(a)(3).

The Office is aware that certain aspects of the issues raised in this notice are currently being litigated in U.S. district courts.¹ Furthermore, the

* Error; line should read:
"Copyright Office has received statements"

† Error; line should read:
"two satellite carriers. These filings raise"

¹ The Office understands that the cases have been briefed, and the parties await the decision of the court. Only one of the two carries filing statements of account is involved in the litigation.

Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Committee on the Judiciary is considering legislation that would give satellite carriers a new interim statutory license to cover satellite carriers' ‡ retransmission of superstations for private viewing by earth station owners. H.R. 2848, 100th Cong., 1st Sess. (June 30, 1987). Accordingly, the office will be cautious to avoid any administrative action that may impede the judicial or legislative processes, and may ultimately decide to take no action, pending a judicial decision.

The filing of statements of account by two different satellite carriers ordinarily requires some action by the Copyright Office. Either the Office must accept the filing without comment; accept them provisionally, either taking no position on the filings or commenting upon any reservations we may have; or refuse the filings as not eligible under the compulsory license, giving appropriate written reasons for that position. The statements of account filed by the carriers (United Video and Satellite Broadcast Network) are open to public inspection. The Office notes that United Video apparently has received satellite resale carrier authorization from the Federal Communications Commission for other transmission activities but not necessarily for servicing the home earth station market.

In addition to general comment about the eligibility of satellite carriers to qualify as cable systems for purposes of 17 U.S.C. 111(c), the Office seeks comment as to whether the same entity may qualify for the passive carrier exemption of section 111(a) with respect

‡ Error; line should read:
"license to cover satellite carriers"

to certain transmissions and also qualify
as a cable system with respect to other
transmissions.

List of Subjects in 37 CFR Part 201

General provision on copyrights,
Cable television, Cable compulsory
license.

Dated: May 4, 1988.

Ralph Oman,

Register of Copyrights.

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