



ANNOUNCEMENT

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

NOTICE OF INQUIRY

DIGITAL AUDIO BROADCAST AND CABLE SERVICES; COPYRIGHT OFFICE STUDY

The following excerpt is taken from Volume 55, Number 206 of the Federal Register for Wednesday, October 24, 1990 (pp. 42916-42918)

LIBRARY OF CONGRESS

Copyright Office

(Docket No. RM 90-6)

Digital Audio Broadcast and Cable Services; Copyright Office Study

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of inquiry.

SUMMARY: The Copyright Office issues this Notice of Inquiry to inform the public that, responsive to a congressional request, it will examine the development of new digital audio broadcast and cable services and the effects implementation of such services may have on performers and copyright owners of copyrightable works under the Copyright Act of 1976, title 17 of the United States Code. The Office seeks public comment as to whether or not delivery of digital audio programming, transmitted by satellite systems, terrestrial systems, or by cable television systems, will affect copyright owners, and, if so, in what manner. In addition, should implementation new audio systems have negative effects on copyright owners for retransmissions of their works, the Office seeks proposals on the proper methods of compensating copyright owners while promoting the greatest availability of creative works to the public.

¹Error; line should read:

"may have on performers and copyright

²Error; line should read:

"addition, should implementation of new"

DATES: Initial comments should be received by no later than December 15, 1990. Reply comments should be received on or before January 31, 1991.

ADDRESSES: Interested persons should submit comments as follows: If sent by mail: United States Copyright Office, Library of Congress, Department 17, Washington, DC 20540. If delivered by hand: Office of the Register of Copyrights, Copyright Office, James Madison Memorial Building, room 407, First and Independence Avenue SE., Washington, DC.

FOR ADDITIONAL INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20540. Telephone: (202) 707-8380.

SUPPLEMENTARY INFORMATION:

1. Background

The Copyright Office is aware that several organizations in the United States plan to introduce audio services that will provide listeners with digital quality programming delivered to them over cable lines. In addition, other companies have applied to the Federal Communications Commission ("FCC") for permission to use certain frequencies to broadcast digital programming to home and automobile radios via satellite. There has also been discussion of a worldwide digital satellite service. Several foreign countries have already designed, manufactured, and tested digital audio systems that deliver quality signals to listeners via satellite and terrestrial equipment.

Technological developments in digital audio transmission currently follow two paths. The first is digital audio

broadcasting, which promises to be a replacement for current FM and AM radio. Digital audio broadcasting is an interference-free, compact disc-quality signal that can be delivered via terrestrial-based and satellite transmission systems. Interest in digital audio broadcasting was sparked by receipt at the FCC of three separate applications requesting frequency allocations and authorization to begin transmission in digital audio format. The applications, filed on May 18, May 22, and July 27, 1990, respectively, petition the Commission for a rulemaking to allocate spectrum, adopt rules for a terrestrial digital audio broadcasting system, and approve satellite carriage and sale of digital audio signals. In response to the applications, the FCC published a Notice of Inquiry seeking comment on the applications, and posing broader regulatory questions as to technical requirements. See FCC Docket No. 90-357 (August 21, 1990). Indications are, however, that a regulatory framework will not likely be in place before 1992, which is when the World Administrative Radio Conference is scheduled to consider setting aside frequencies for digital audio broadcasting.

The second development in digital audio services involves cable systems. In the United States three companies are already testing digital audio music services made available via cable, which does not involve the same spectrum allocation limitations that digital audio broadcasting does. Services to be offered to cable subscribers include packages of channels containing all-digital music recorded on compact discs and

delivered to homes via a special tuner, as well as digital simulcast of the sound tracks of motion pictures and television shows. Because it does not require prior FCC authorization, digital cable radio will probably become widespread sooner than will digital audio broadcasting.

The Chairman of the Senate Subcommittee on Patents, Copyrights, and Trademarks, Senator Dennis DeConcini of Arizona, by letter of July 25, 1990, requested the Copyright Office to conduct a study "to determine how the rights of copyrights owners of sound recordings and performers are protected with respect to digital audio transmissions." The Senator requested that the study include "any recommendations as to any additional means that may be necessary to protect the rights of copyright owners."

By this Notice of Inquiry, the Copyright Office seeks and invites public comment to assist the Office in the preparation of this study.

2. Policy Questions for Addressing Copyright Interests Regarding Digital Audio Broadcasting

Although certain inquiries pending before the FCC focus on technical aspects of digital audio broadcasting, and legislation has been introduced addressing the issue of spectrum allocation, the Office's concern is that the rights and interests of those who own copyrights in works that may easily be transmitted and then copied in digital form should be balanced with the public's interest in enhanced technology and improved sound quality. These concerns bring to light often-aired debates about home taping, the introduction of digital audio taping equipment into the United States' consumer market, and the possible introduction of royalty payment

systems.

The Office seeks general comments and specific proposals from interested parties about the state of the technology in the field of digital audio transmissions, the economic viability of proposed systems, and information about how copyright interests might be affected by the introduction of digital audio transmission services.

Commenting parties are encouraged to include descriptions of methods for compensating copyright owners for copying of near-perfect reproductions of their works via regional, national, or international digital audio transmission systems. Comments are also invited regarding the impact of copyright controls and royalties on public access to new digital audio transmission services.

Specifically, the Office invites public comment or information regarding the following:

(1) Would introduction of digital audio broadcasting services prompt the average listener to copy copyrighted works? Would a listener be more likely to copy digitally transmitted works than works now broadcast on AM or FM radio frequencies, or on television? To what degree can a listener's home taping habits be monitored and what technical limitations on home taping are feasible?

(2) Would the copying of works transmitted via digital audio broadcasting services significantly displace sales of copyrighted works recorded on phonorecords, audio tapes, or compact discs?

(3) Would a copyright owner have the practical ability to negotiate with the owners/operators of digital audio services for compensation for transmission of his/her works? If not could representatives of copyright owners, such as performing rights

organizations, accomplish this task?

(4) Should a royalty be placed on recording materials, such as blank tapes, or on digital recording equipment itself, to be distributed among copyright claimants? If so, who would be responsible for administering this process?

(5) Should digital audio broadcasters be forced to scramble their broadcasts so that listeners wishing to receive a signal containing copyrighted works would be forced to acquire special equipment, thereby becoming accountable for the possible copying of copyrighted works?

(6) Describe existing and contemplated digital audio transmission services, including a description of (a) encryption systems, if any; (b) the means of transmitting prerecorded digital signals; (c) any plans to compress the digital signals; and (d) any proposals concerning transmission of digital subcode information embodied on prerecorded works.

(7) Provide information relating to the business and commercial aspects of digital audio transmission services, including (a) the current number of subscribers and predictions of future growth for existing digital cable services; (b) the anticipated start-up dates and predicted audience size of proposed digital cable and broadcast services; (c) a description of the music channel offerings—both existing and contemplated; (d) the availability of "pay-per-listen" services; and (e) copyright licensing arrangements, if any.

Ralph Oman,

Register of Copyrights.

[FR Doc. 90-23084 Filed 10-23-90; 9:05 am]

BILLING CODE 1410-07-01

³Error; line omitted should read:
"Dated: October 15, 1990"