



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559-6000

NOTICE

TERMINATION OF PROCEEDING TO ADJUST CABLE COMPULSORY LICENSE RATES

The following excerpt is taken from Volume 61, Number 241 of the *Federal Register* for Friday, December 13, 1996 (pp. 65603-65604)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96-2 CARP-CRA]

Termination of Proceeding to Adjust Cable Compulsory License Rates

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice.

SUMMARY: The Copyright Office is announcing the termination of the proceeding to adjust the cable copyright royalty rates. The Office takes this action following the withdrawal of all pending petitions seeking a rate adjustment of the cable copyright royalty rates and gross receipts limitations. As the period for filing petitions to request a rate adjustment is over, no party may file a new petition to initiate a cable rate adjustment proceeding until 2000.

EFFECTIVE DATE: November 8, 1996.

FOR FURTHER INFORMATION CONTACT:

Marilyn J. Kretsinger, Acting General Counsel, or Tanya Sandros, Attorney Advisor, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION:

Section 111 of the Copyright Act, 17 U.S.C., grants a compulsory copyright license to cable television systems for the retransmission of over-the-air broadcast stations to their subscribers. In exchange for the license, cable operators submit

royalty payments, along with statements of account detailing their retransmissions, to the Copyright Office on a semiannual basis.

A cable system calculates its royalty payments in accordance with the statutory formula described in 17 U.S.C. 111(d). The cable system then makes a payment based upon its gross receipts from subscribers for the retransmission of broadcast signals. Section 111(d) subdivides cable systems, based on the amount of their gross receipts, into three categories: small, medium, and large. Small systems pay a fixed amount without regard to the number of broadcast signals they retransmit, while medium-sized systems pay a royalty, within a specific range, based on the number of signals they retransmit. Large cable systems calculate their royalties according to the number of distant broadcast signals which they retransmit to their subscribers.¹ Under this formula, a large cable system is required to pay a specified percentage of its gross receipts for each distant signal that it retransmits.

Congress established the gross receipts limitations that determine a cable system's size, and provided the gross receipts percentages (rates) for distant signals. 17 U.S.C. 111(d)(1). Congress also provided for adjustment of both the gross receipts limitations and the distant signal rates. 17 U.S.C. 801(b)(2). The limitations and rates can be adjusted to reflect national monetary inflation, changes in the average rates charged by cable systems for

¹For cable systems which retransmit only local broadcast signals, there is still a minimum royalty fee which must be paid. This minimum royalty fee is not applied, however, once the cable system carries one or more distant signals.

retransmission of broadcast signals, or changes in certain cable rules of the Federal Communications Commission in effect on April 15, 1976. 17 U.S.C. 801(b)(2)(A),(B),(C), and (D). The current gross receipts limitations and rates are set forth in 37 C.F.R. 256.2.

Section 803 of the Copyright Act, 17 U.S.C., provides that the gross receipts limitations and the rates of the cable compulsory license may be adjusted in 1995, and every subsequent fifth calendar year, upon filing a petition with the Library of Congress requesting an adjustment during these window years. If the Library determines that the petitioner has a "significant interest" in the royalty rate or rates in which adjustment is requested, the Library must convene a CARP to determine the adjustment. 17 U.S.C. 803(a)(1).

On December 29, 1995, the Library of Congress received two petitions requesting an adjustment to the cable compulsory license royalty rates. The "Copyright Owners"² and the National Cable Television Association, Inc. each filed a petition seeking an adjustment to the cable copyright royalty rates.

In response to the petitions, the Librarian established the schedule for the cable rate adjustment proceeding. See Recommendation and Order in Docket No. 96-2 CARP-CRA (July 22, 1996). This order announced the 45-day precontroversy schedule which required the parties to the proceeding to submit

²"Copyright Owners" is a collective term for Program Suppliers, Joint Sports Claimants, the National Association of Broadcasters, Music Claimants (the American Society of Composers, Authors, and Publishers, Broadcast Music, Inc., and SESAC, Inc.), Canadian Claimants, Devotional Claimants, the Public Broadcasting Service, and National Public Radio.

their direct cases on November 8, 1996.

On November 8, 1996, the parties to the petitions, however, filed a Joint Withdrawal of Petitions for Rate Adjustment. The withdrawal notice states that the parties "having agreed that they will not seek any adjustments to the cable copyright royalty rates and gross receipts limitations in effect as of December 31, 1995, hereby withdraw all of the pending petitions for rate adjustments filed by and on their behalf." Withdrawal Notice at 1.

The Librarian of Congress accepts the parties' withdrawal of their petitions to adjust the cable royalty rates, and as no other petitions seeking adjustment of the cable royalty rates were filed during the 1995 window period, the Librarian announces the termination of the CARP proceeding to make these adjustments, effective as of November 8, 1996, the filing date of the notice withdrawing both petitions for rate adjustments.

Dated: November 22, 1996
Marybeth Peters,
Register of Copyrights.

Approved:
James H. Billington,
The Librarian of Congress

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