



ANNOUNCEMENT

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

NOTICE OF PUBLIC HEARING

REPORT BY THE REGISTER OF COPYRIGHTS ON VOLUNTARY LICENSES FOR THE USE OF NONDRAMATIC LITERARY WORKS BY NONCOMMERCIAL BROADCASTERS; PUBLIC HEARING

The following excerpt is taken from Volume 44, No. 196 of the Federal Register for Tuesday, October 9, 1979 (pp. 58005-58006).

**LIBRARY OF CONGRESS
Copyright Office**

(Docket No. PB 79-3)

**Report by the Register of Copyrights
on Voluntary Licenses for the Use of
Nondramatic Literary Works by
Noncommercial Broadcasters; Public
Hearing**

AGENCY: Library of Congress, Copyright
Office.

ACTION: Notice of public hearing.

SUMMARY: The Copyright Office of the
Library of Congress is preparing a report
to Congress under section 118(e)(2) of
Pub. L. 94-553 (90 Stat. 2541), the
Copyright Act of 1976, pertaining to
voluntary licenses for the use of
nondramatic literary works by

noncommercial broadcasters. This
notice announces and invites
participation in a one day public hearing
intended to elicit views, comments, and
information from interested members of
the public which will assist the
Copyright Office in formulating a report,
and making legislative
recommendations, if any.

DATE: The hearing will be held in
Arlington, Virginia on November 7, 1979,
commencing at 10:00 a.m.

Members of the public desiring to
testify should submit written requests to
present testimony before October 31,
1979 to the address set forth below.

Ten copies of written statements must
be received by the Copyright Office by 4
p.m. on October 31, 1979.

Supplemental statements will be
entered into the record until December
3, 1979. Ten copies of all comments
should be submitted.

ADDRESSES: The hearing will be in
Room 910, Crystal Mall Building No. 2,
1921 Jefferson Davis Highway,
Arlington, Virginia.

Written requests to present testimony
should be addressed to: Ivan R. Bender,
Consultant, Office of the General
Counsel, Copyright Office, Library of
Congress, Washington, D.C. 20559.

Ten copies of written statements or of
supplemental statements should be
submitted as follows:

If sent by mail: Ivan R. Bender,
Consultant, Office of the General
Counsel, Copyright Office, Library of
Congress, Caller No. 2999, Arlington,
Virginia 22202.

If delivered by hand, the copies
should be brought to Office of the
General Counsel, Room 519, Crystal
Mall Building No. 2, 1921 Jefferson Davis
Highway, Arlington, Virginia.

All requests to testify should clearly
identify the individual or group

requesting to testify and the amount of time desired. The Copyright Office will undertake to contact all of the witnesses to confirm the times of their appearances.

FOR FURTHER INFORMATION CONTACT: Ivan R. Bender, Consultant, Office of the General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559 (703) 557-8731.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act of 1976 establishes special provisions affecting the use of certain types of works in programs transmitted by noncommercial broadcasters. In the absence of voluntary licenses, the Copyright Royalty Tribunal is authorized to establish reasonable terms and rates of royalty payments for use of published nondramatic musical works and published pictorial, graphic and sculptural works in accordance with the Act.

In the case of nondramatic literary works, Congress decided to rely on voluntary licensing agreements, pending a report by the Register of Copyrights, rather than authorize the Copyright Royalty Tribunal to set rates and terms.

Congress reached this conclusion because it was impressed with various arguments put forth by representatives of authors and publishers of nondramatic literary materials that such materials should not be subject to the provisions of section 118. They expressed the fear that if such materials were included in section 118, it would result in loss of control by authors over the use of their works in violation of basic principles of artistic and creative freedom.

Congress was assured by the representatives of authors and publishers of nondramatic literary materials that they would work out reasonable terms and conditions in private negotiations with representatives of noncommercial broadcasters. Such agreements, reached on a voluntary basis would safeguard the interests of authors and publishers, and at the same time would afford noncommercial broadcasters access to such materials on reasonable grounds. In order to facilitate successful private negotiations, the parties were granted a limited exemption from the antitrust laws.

To provide a means by which it could determine the extent to which such voluntary agreements were reached, and whether the agreements were successful, Congress declared that the Register of Copyrights should consult with authors and other owners of copyright in nondramatic literary works

and their representatives, and with public broadcasting entities and their representatives, and then submit a report to the Congress on January 3, 1980. This report, as described in section 118(e)(2), shall contain the findings of the Register, following these consultations, with respect to "the extent to which voluntary licensing arrangements have been reached * * *." The mandate further states the "report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted."

The Copyright Office believes that a public hearing is the appropriate forum for consulting with authors, other copyright owners, and public broadcasting entities in preparation for its report.

A standard voluntary licensing agreement has been negotiated by the Association of American Publishers, the Authors League of America, the Public Broadcasting Service, and National Public Radio (identified as "Public Broadcasting License for nondramatic Literary Works; a Schedule of Recommended Fees for such Public Broadcasting License") and was filed in the Copyright Office on August 28, 1979. We have been informed that the agreement can be implemented for practical reasons only on or about October 1, 1979.

It is clear, therefore, that the parties to the agreement will have little practical experience under the standard voluntary license by the date of the public hearing on November 7, 1979. However, the congressional directive for consultation with the parties will be satisfied by the public hearing, and the parties can give us information about their understandably limited experience under the agreement. In addition, we hope to obtain information about licensing practices before the agreement was reached and further details about the scope and terms of the agreement.

The Copyright Office is therefore interested in receiving comments and testimony about the general terms and scope of the agreement and information responsive to the following questions. Related statements and observations are welcome.

(1) How did the process of securing permission to use copyrighted nondramatic literary works function before the voluntary agreement went into effect? In this regard, what was the typical lead time a broadcaster required in order to obtain the necessary permission? Did authors and publishers receive requests in a manner which enabled them to respond expeditiously?

(2) What has been the experience of the parties since the voluntary agreement went into effect? What has been the practical experience of the Public Broadcasting Expediting Center, which was established as part of the licensing procedure?

(3) What has been the response by noncommercial broadcasters to the licensing system? What has been the response by authors and publishers? Have there been a significant number of permission requests and license agreements outside of the standard voluntary license? What were the terms of these licenses, and how did they depart from the agreement?

(4) What plans are being made by the Association of American Publishers, and the Authors League of America, the Public Broadcasting Service, and National Public Radio for monitoring the operation of the standard voluntary license? Are there plans for any further negotiations?

(5) What is the situation with respect to copyrighted nondramatic literary works that are not covered by the agreement? Will they be used by noncommercial broadcasters? If so, * under what terms?

(6) Do any of the parties to the voluntary agreement see the need for any modification in the legislation covering this topic? If so, what are the recommendations for such amendments?

(17 U.S.C. 118(e)(2))

Dated: October 2, 1979.

Barbara Ringer,
Register of Copyrights.

Approved:

Daniel J. Boorstin,
The Librarian of Congress.

[FR Doc. 79-31062 Filed 10-5-79; 8:45 am]

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