



ANNOUNCEMENT

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

ANNOUNCEMENT OF THE SCHEDULE FOR THE PROCEEDING DISTRIBUTION OF 1990, 1991 AND 1992 CABLE ROYALTY FUNDS

The following excerpt is taken from Volume 60, Number 240 of the *Federal Register* for Thursday, December 14, 1995 (pp. 64181-64182)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94-3 CARP-CD 90-92]

Distribution of 1990, 1991 and 1992 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Announcement of the schedule for the proceeding.

SUMMARY: The Copyright Office of the Library of Congress is announcing the schedule for the 180 day arbitration period for the distribution of 1990-92 cable compulsory license royalties, as required by the regulations governing this proceeding.

EFFECTIVE DATE: December 14, 1995.

ADDRESSES: All hearings and meetings for the 1990-92 cable distribution proceeding shall take place in the James Madison Building, Room 414, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT:

Marilyn J. Kretsinger, Acting General Counsel or Tanya Sandros, Copyright Arbitration Royalty Panel Specialist, at: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 7078380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION:

I. Background

37 CFR 251.11(b) provides that:

At the beginning of each proceeding, the CARP shall develop the original schedule of

the proceeding which shall be published in the *Federal Register* at least seven calendar days in advance of the first meeting. Such announcement shall state the times, dates, and places of the meetings, the testimony to be heard, whether any of the meetings, or any portion of a meeting, is to be closed, and if so, which ones, and the name and telephone number of the person to contact for further information.

This notice fulfills the requirements of §251.11(b) for the proceeding for the distribution of cable compulsory license royalties for the years 1990-92.

On December 15, 1994, the Copyright Office published a notice in the *Federal Register* requesting comment as to the existence of controversies to the distribution of the 1990 cable royalty fund. 59 FR 64714 (December 15, 1994). In response to this notice, copyright owners identified the existence of controversies for distribution of the 1990 fund, as well as the 1991 and 1992 funds. The copyright owners requested that the Office consolidate the 1990-92 funds into a single distribution proceeding.

On March 21, 1995, the Office published a notice consolidating the 1990-92 cable royalty distribution proceedings into a single proceeding, and announced the precontroversy discovery schedule. 60 FR 14971 (March 21, 1995). The Office also announced in that notice that controversies to the 1990-92 would be declared, and arbitration initiated, on November 17, 1995. 60 FR 14975. The parties, however, filed a motion with the Office on November 8, 1995, requesting a deferment of the commencement date until December 29, 1995. In response to this motion, the Copyright Office issued an Order which set December 4, 1995, as the new initiation date. Order, dated November

13, 1995.

On November 28, 1995, the Office announced the initiation of the 180 day arbitration period, pursuant to 37 CFR 251.72; the names of the arbitrators who will preside at the 1990-92 cable distribution proceeding; a delay of the initiation of the proceedings until December 4, 1995; and the date, time and place of the initial meeting of the proceeding. 60 FR 58680 (November 28, 1995).

This notice announces the present schedule for the entire proceeding.

II. The Schedule for the Cable Distribution Proceeding

The parties to this proceeding jointly proposed a preliminary schedule for the upcoming hearings to the Copyright Office on November 17, 1995. The Copyright Office, in turn, passed the proposed schedule to the arbitrators for their comments and approval. In response to a request from the arbitrators, the Joint Sports Claimants agreed to shorten their direct case, and rescheduled two of their witnesses for the rebuttal phase of the proceeding. Likewise, the National Association of Broadcasters agreed to conclude their case no later than December 20, 1995. Further refinements to the proposed schedule were made at the meeting on December 4, 1995. This schedule was finalized in an Order issued by the CARP panel. See CARP Order, dated December 8, 1995. Thus, the hearing will proceed according to the following schedule:

Presentation of Direct Cases

Joint Sports Claimants

December 5 - December 14, 1995
National Association of Broadcasters

December 14 - December 20, 1995
Program Suppliers
December 20, 1995 - January 12, 1996
Public Broadcasting
January 16 - January 19, 1996
Devotional Claimants
January 22 - January 26, 1996
Canadian Claimants
January 29 - February 2, 1996
Deadline for Filing Written Rebuttal
Cases
February 7, 1996
Deadline for Serving Requests for
Underlying Documents Related to
Rebuttal Cases
February 9, 1996
Deadline for Responses to Requests for
Underlying Documents
February 13, 1996
Deadline for Producing Documents
February 15, 1996
Deadline for Filing any Motions Related
to Rebuttal Cases
February 15, 1996
Deadline for Filing any Oppositions to
Motions
February 20, 1996
Presentation of Rebuttal Cases
February 27 - March 15, 1996
Deadline for Filing Proposed Findings
of Fact & Conclusions of Law
April 5, 1996

Deadline for Filing Responses to
Proposed Findings of Fact &
Conclusions of Law
April 17, 1996
Close of 180 day period
June 1, 1996

At this time, the parties have not moved to close any portion of the proceeding to the public. Further refinements to the schedule will be announced in open meetings and issued as orders to the parties participating in the proceeding; and all changes will be noted in the docket file of the proceeding, as required by the Copyright Office regulations governing the administration of CARP proceedings. 37 CFR 251.11(c).

III. Publication of the Original Schedule on Short Notice

The regulations require that the Copyright Office publish the original schedule for the CARP proceeding in the **Federal Register** at least seven calendar days in advance of the first meeting. 37 CFR 251.11(b). Pursuant to 37 CFR 251.11(d), however, the arbitrators voted to waive the seven day notice requirement. The results of the vote on the question, whether the

requirement for a seven calendar notice should be waived, are:

The Hon. Mel R. Jiganti, Chairperson—
Yes

The Hon. John B. Farmakides—Yes
The Hon. Ronald P. Wertheim—Yes

The arbitrators voted to suspend the notice requirement for several reasons. First, all parties to the proceeding had received notice of the proposed schedule approximately two weeks prior to the initiation of the proceeding. Second, the present schedule, which was fine tuned at the meeting on December 4, 1995, did not significantly alter the schedule initially proposed by the parties. Third, the meeting on December 4, 1995, which marks the commencement of the proceeding, was announced in a **Federal Register** notice seven calendar days before the meeting. And finally, the arbitrators and the parties anticipate the proceeding will require the full 180 days for hearing the testimony and preparing the decision. For the foregoing reasons, the arbitrators hereby waive the notice requirement, but comply with all substantive requirements of the rule.

Dated: December 11, 1995

Marilyn Kretsinger,

Acting General Counsel.

[FR Doc. 95-30499 Filed 12-13-95; 8:45 am]

BILLING CODE 1410-33-P