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LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96-5 CARP DSTRA]

Determination of Statutory License Rates and Terms for Certain Digital Subscription Transmissions of Sound Recordings

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 determining the rates and terms for certain digital subscription transmissions of sound recordings, as required by the regulations governing this proceeding.

EFFECTIVE DATE: June 17, 1997.

ADDRESSES: All hearings and meetings for the determination of the royalty fees for certain digital subscription transmissions of sound recordings shall take place in the James Madison Building, Room 414, First and

Independence Avenue, S.E.,
Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT:
Nanette Petruzzelli, Acting General
Counsel, or Tanya Sandros, Attorney
Advisor, at: Copyright Arbitration
Royalty Panel (CARP), P.O. Box 70977,
Southwest Station, Washington, D.C.
20024. Telephone: (202) 707-8380.
Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: Section 251.11(b) of the regulations governing the Copyright Arbitration Royalty Panels, 37 CFR subchapter 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 to determine the rates and terms for transmissions of sound recordings by certain digital subscription services.

On August 2, 1996, the Library announced the precontroversy discovery period for this docket and requested interested parties to file Notices of Intent to Participate. 61 FR 40464 (August 2, 1996). On October 11, 1996, Digital Cable Radio Associates

and Muzak, L.P. filed a motion to suspend the proceeding, which DMX, Inc. joined on October 15, 1996. These three parties are collectively referred to as the "Subscription Services" throughout this notice. The Subscription Services requested the suspension pending the resolution of their motion to compel document production. On November 27, 1996, the Office denied the motion to suspend the proceeding, but in recognition that the precontroversy schedule was already in a *de facto* state of suspension due to the Subscription Services' refusal to exchange documents, the Office adopted a new schedule. See Order in Docket No. 96-5 CARP DSTRA (November 27, 1996). In a subsequent order, the Office notified the parties that the 180 day arbitration period would commence on June 2, 1997. See Order in Docket No. 96-5 CARP DSTRA (March 28, 1997). Then on June 2, 1997, the Office published a **Federal Register** notice announcing the names of the arbitrators and the initiation of the 180 day period. 62 FR 29742 (June 2, 1997).

On June 3, 1997, the parties to this proceeding met with the arbitrators for the purpose of setting a schedule for this proceeding. At that meeting, the parties agreed to present their cases in two phases. Phase I will address the proposed royalty rates and phase II will address the terms associated with those rates. The schedule for the proceeding is as follows:

Opening Remarks for all parties	June 9, 1997.	
Presentation of Direct Cases (Phase I):		
Recording Industry Association of America (RIAA)	June 9, 1997.	Jay Berman, Hilary Rosen.
RIAA	June 10, 1997	Zachary Horowitz, Gary Morris, James Trautman.
RIAA	June 11	Barry Massarsky, Larry Gerbrandt.
RIAA	June 12	David Wilkofsky.
Subscription Services:		
• Digital Cable Radio Associates	June 16, 1997.	David J. Beccaro, W. Barry McCarthy, Jr.
	June 17, 1997.	Lou Simon.
• DMX, Inc.	June 17, 1997	Jerold H. Rubinstein, Douglas G. Talley.
• Muzak	June 18, 1997	Bruce B. Funkhouser.
• Joint witness	June 19, 1997	John R. Woodbury, Ph.D.
Presentation of Direct Cases (Phase II):	June 30, 1997	(witness list is not available for Phase II at this time).
	July 1, 1997	
	July 3, 1997	
Presentation of Rebuttal Cases:	July 26-31, 1997.	
Close of 180 day period	November 28, 1997.	

During this proceeding, the Subscription Services plan to present evidence submitted under a protective order issued by the Librarian of Congress. See Recommendation and Order in Docket No. 96-5 CARP DSTRA (September 18, 1996). In anticipation of the need to close portions of these meetings, the Subscription Services filed a motion on June 6, 1997, requesting the CARP to close the meetings scheduled for June 9, 11, 12,

and June 16-20, 1997, because various expert witnesses and representatives of the Subscription Services expect to discuss substantial amounts of confidential and trade secret information on these days. The arbitrators considered the motion on June 9, 1997, before hearing the opening statements, and voted to close the meetings pursuant to their authority under 37 CFR 251.13(d). This provision allows a CARP to close its meetings "[i]f

the matter involves privileged or confidential trade secrets or financial information." The record of the vote to close the meetings is as follows:

The Hon. Lenore Ehrig, Chairperson—
Yes

The Hon. Thomas A. Fortkort—Yes
The Hon. Sharon T. Nelson—Yes

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 publish the schedule on shorter notice than the required seven days in order to maximize the allotted time to hear the evidence and write their report. The results of the vote on the question, whether the requirement for a seven calendar day notice should be waived, are:

The Hon. Lenore Ehrig, Chairperson—
Yes

The Hon. Thomas A. Fortkort—Yes

The Hon. Sharon T. Nelson—Yes

At this time, the Office does not have a list of any additional persons expected to attend the closed meetings, but the Office will provide this information to any party, upon request, when it becomes available. Further refinements to the schedule will be announced in open meetings and issued as orders to the parties participating in the proceeding. 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).

Dated: June 11, 1997.

Marybeth Peters,

Register of Copyrights.

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NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Institute of Museum and Library Services; Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, is providing the general public and Federal agencies with an opportunity to comment on draft proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Institute of Museum and Library Services is soliciting comments concerning a new program, National

Leadership Grants, authorized by the Museum and Library Services Act of 1996, Title VII of the Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act, as enacted by Sec. 101(e) of Divisions A. Public Law 104-208, enacted September 30, 1996.

A copy of the draft proposed information collection can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments on the information collection requested for this new program must be submitted to the office listed in the addressee section below on or before (60 days from publication).

IMLS is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g., permitting electronic submissions of responses.
- IMLS welcomes all comments regarding the proposed guidelines and their impact on the ability of museums and libraries to improve service to the public.

ADDRESSES: Dr. Rebecca Danvers, Institute of Museum and Library Services, 1100 Pennsylvania Ave., N.W., Washington, DC 20506. Telephone (202) 606-8539. e-mail Iminfo@ims.fed.us.

SUPPLEMENTARY INFORMATION:

Background

The Museum and Library Services Act of 1996 describes National Leadership Grants or Contracts in Sec. 262. The statute directs the Director to establish and carry out a new program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants or contracts shall be used for activities that may include—

(1) Education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

(2) Research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

(3) Preservation or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

(4) Model programs demonstrating cooperative efforts between libraries and museums.

The statute further authorizes the Director to carry out these activities by awarding grants to, or entering into contract, on a competitive basis with, libraries, agencies, institutions of higher education, or museums, where appropriate.

The Institute began the process of developing these guidelines in March 1997 by convening a group of renowned museum and library professionals, together with several National Commission for Library and Information Science Commissioners and Members of the National Museum Services Board, for two days of discussion. On the first day they heard from panels representing museums, libraries, other funders and Federal policy makers. On the second day they discussed what they had heard and what issues they see as most important for the Institute to address in the coming years.

Drawing from these discussions, agency staff drafted guidelines for these projects which were reviewed at the first joint meeting of the National Museum Services Board and the National Commission for Library and Information Sciences on May 8, 1997. The Institute received policy guidance from these advisory bodies and used this to further revise the draft guidelines.

Comments submitted in response to this notice will be used by the agency in further developing its National Leadership Grants guidelines and in the request for the Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Mamie Bittner, Director of Legislative