

**LIBRARY OF CONGRESS****Copyright Office****[Docket No. 2001-2 CARP DTNSRA]****New Subscription Services and the Digital Performance Right in Sound Recordings****AGENCY:** Copyright Office, Library of Congress.**ACTION:** Initiation of voluntary negotiation period.

**SUMMARY:** The Copyright Office is announcing the initiation of the six-month voluntary negotiation period for determining reasonable rates and terms for the public performance of sound recordings by new subscription services. The Office is also requesting that parties participating in the negotiation process to so notify the Office.

**EFFECTIVE DATE:** The voluntary negotiation period begins on February 12, 2001. Notification of participation in the negotiation period is due by March 1, 2001.

**ADDRESSES:** Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE., Washington, DC 20559-6000.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** In 1995, Congress passed the Digital Performance Right in Sound Recording Act which gave copyright owners of sound recordings an exclusive right to perform publicly their copyrighted works by means of a digital audio transmission, subject to certain limitations and exemptions. 17 U.S.C. 106(6). Among the limitations placed on the performance of a sound recording was the creation of a statutory license for performances made by nonexempt, non-interactive digital subscription services. 17 U.S.C. 114. Initial rates and terms for transmissions made by these services have been set by order of the Librarian, following a Copyright Arbitration Royalty Panel ("CARP") proceeding which had been convened for this

purpose. See 63 FR 25394 (May 8, 1998).

Section 114 was later amended with the passage of the Digital Millennium Copyright Act of 1998 ("DCA"), Public Law 105-304, to cover additional digital audio transmissions. These include "eligible nonsubscription transmissions" and those transmissions made by "new subscription services" and "preexisting satellite digital audio radio services." Currently, the Library of Congress is conducting two separate rate adjustment proceedings which will set rates and terms for transmissions made by "eligible nonsubscription services," see 63 FR 65555 (November 27, 1998); 65 FR 2194 (January 13, 2000); and Order in Docket Nos. 99-6 CARP DTRA and 2000-3 CARP DTRA2 (December 4, 2000), and those transmissions made by "pre-existing satellite digital audio radio services." 66 FR 1700 (January 9, 2001). The latter proceeding will also establish rates and terms for transmissions made during the period January 1, 2001, to December 31, 2002, by "preexisting subscription services" (the three subscription services in existence prior to the passage of the DMCA). Neither proceeding will consider rates and terms for transmissions made by "new subscription services."

For purposes of the section 114 license, "a 'new subscription service' is a service that performs sound recordings by means of noninteractive subscription digital audio transmissions and that is not a preexisting subscription service or a preexisting satellite digital audio radio service." 17 U.S.C. 114(j)(8). To initiate a proceeding to establish rates and terms for those transmissions made by these services, either a copyright owner of sound recordings or a new subscription service must file a petition with the Library of Congress, requesting that the Copyright Office initiate the voluntary negotiation period for the purpose of setting these rates and terms. On January 24, 2001, Music Choice filed such a petition with the Copyright Office pursuant to section 114(f)(2)(C)(i)(I).

Section 114(f)(2)(C)(i)(I) requires the Library to publish a notice initiating the 6-month voluntary negotiation period no later than 30 days after the date the petition is filed. Today's notice fulfills this requirement.

**Negotiation Period and Voluntary Agreements**

Pursuant to section 114(f)(2)(C)(i)(I), the Librarian of Congress is announcing a six-month negotiation period to give interested parties an opportunity to negotiate a voluntary agreement that will establish statutory rates and terms

for the new subscription services. If the parties reach such an agreement and submit the proposal to the Librarian for approval, it will be published for public comment. Provided that no party with a significant interest and an intent to participate in an arbitration proceeding files a comment opposing the negotiated rates and terms, the Librarian may adopt the proposed rates and terms without convening a CARP. See 37 CFR 251.63(b).

**Petitions**

In the absence of a license agreement negotiated under 17 U.S.C. 114(f)(2)(A), those copyright owners of sound recordings and entities availing themselves of the statutory licenses are subject to arbitration upon the filing of a petition by a party with a significant interest in establishing reasonable terms and rates for the statutory licenses. Petitions must be filed in accordance with 17 U.S.C. 114(f)(2)(C)(ii)(I), and 803(a)(1) and may be filed anytime during the 60-day period beginning on August 13, 2001. See also 37 CFR 251.61. Parties should submit petitions to the Copyright Office at the address listed in this notice. The petitioner must deliver an original and five copies to the Office.

**Request for Notification**

In order to facilitate productive settlement discussions during the negotiation period and to facilitate complete settlement, it is useful to create a list of parties that wish to participate in the negotiation phase of the proceeding. The list should be in a centralized location and available to the public so that interested parties may identify each other and enter into the settlement discussions. Therefore, the Library is requesting that those parties wishing to participate in the six-month negotiation period file notification with the Copyright Office by March 1, 2001.

The list is solely for informational purposes and notification is on a voluntary basis. In other words, parties that wish to participate in the negotiation period are not required to file notification with the Office, though we strongly encourage each party to make the filing, and will accept such filings at any time up until the end of the six-month period. Furthermore, the notification to participate in the settlement discussion is not a Notice of Intent to Participate in a CARP proceeding, because as provided in 17 U.S.C. 114(f)(2)(B), the Library cannot begin a CARP proceeding until petitioned to do so after the end of the negotiation period. If the Library receives such a petition, it will call for

Notices of Intent to Participate at a later date.

Dated: February 7, 2001.

**David O. Carson,**

*General Counsel.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01-021]

### NASA Advisory Council, Aero-Space Technology Advisory Committee (ASTAC); Rotorcraft Subcommittee Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aero-Space Technology Advisory Committee, Rotorcraft Subcommittee meeting.

**DATES:** Thursday, April 26, 2001, 8 a.m. to 5 p.m. and Friday, April 27, 2001, 8 a.m. to 12 Noon.

**ADDRESSES:** National Aeronautics and Space Administration, John H. Glenn Research Center at Lewis Field, Administration Building, Room 215, 21000 Brookpark Road, Cleveland, OH 44135.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mattie P. Thomas, National Aeronautics and Space Administration, John H. Glenn Research Center at Lewis Field, 21000 Brookpark Road, Cleveland, OH 44135, 216/433-3702.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

- Status, Technical Accomplishments, and Plans for the NASA Rotorcraft Research and Technology Base Program
- Review of Rotorcraft-Related Research Activities at Glenn Research Center

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: February 6, 2001.

**Beth M. McCormick,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01-022]

### NASA Advisory Council (NAC), Aero-Space Technology Advisory Committee (ASTAC); Aviation Operations Systems Subcommittee; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aero-Space Technology Advisory Committee, Aviation Operations Systems Subcommittee meeting.

**DATES:** Wednesday, March 28, 2001, 1 p.m. to 5 p.m. and Thursday, March 29, 2001, 8:30 a.m. to 4:30 p.m.

**ADDRESSES:** National Aeronautics and Space Administration, Ames Research Center, Building 262, Room 100, Moffett Field, CA 94035-1000.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Jacobsen, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/604-3743.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Aviation Operations Systems Program Review
- Aircraft Icing Research Project Review
- Human Automation Integration Research Project Review
- Human Error and Countermeasures Research Project Review
- Psychological/Physiological Stressors and Factors Research Project Review

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: February 6, 2001.

**Beth M. McCormick,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01-23]

### NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

**AGENCY:** National Aeronautics and Space Administration

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

**DATES:** Tuesday, March 20, 2001, 8:30 a.m. to 5:30 p.m.; Wednesday, March 21, 2001, 8:30 a.m. to 5:30 p.m.; and Thursday, March 22, 2001, 8:30 a.m. to Noon.

**ADDRESSES:** NASA Headquarters, 300 E Street, SW., Conference Room 5H46, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-4452.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following:

- Associate Administrator's Program Status Report
- Science Theme Status Reports
- Subcommittee Reports
- Outer Planets
- NGST Reformulation
- Technology Program Status
- Research Program Review Status
- Sounding Rocket and Balloons Program
- Activities and Schedule for 2003 Strategic Plan
- Mars Scout

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Visitors will be requested to sign a visitor's register.

Dated: February 7, 2001.

**Beth M. McCormick,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

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