

**SUMMARY:** The U.S. National Administrative Office (NAO) gives notice that on January 7, 2000 U.S. Submission #9901 was accepted for review. The submission was filed with the NAO on November 10, 1999 by the Association of Flight Attendants, AFL-CIO, and the Association of Flight Attendants of Mexico. The submission raises concerns about freedom of association and occupational safety and health at the privately owned Mexican airline company, Executive Air Transport, Inc. (TAESA). The submitters allege that Mexico has failed to fulfill obligations under the North American Agreement on Labor Cooperation (NAALC) in connection with freedom of association and protection of the right to organize, the right to bargain collectively, minimum labor standards, and occupational safety and health.

Article 16(3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO. The objectives of the review of the submission will be to gather information to assist the NAO to better understand and publicly report on the Government of Mexico's compliance with the obligations set forth in the NAALC.

**EFFECTIVE DATE:** January 7, 2000.

**FOR FURTHER INFORMATION CONTACT:** Lewis Karesh, Acting Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, NW, Room C-4327, Washington, DC 20210. Telephone: (202) 501-6653 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On November 10, 1999, U.S. Submission #9901 was filed by the Association of Flight Attendants, AFL-CIO, and the Association of Flight Attendants of Mexico (ASSA). The submission raises concerns about freedom of association and occupational safety and health at the privately owned Mexican airline company, Executive Air Transport, Inc. (TAESA).

The submission focuses on the attempts of the flight attendants to organize at TAESA. The submitters allege that efforts to organize at TAESA were hindered by the federal labor board and TAESA management. They assert that the Mexican government has failed to fulfill its obligations under Part 2 of the NAALC to enforce levels of protection, government enforcement action, private action, and procedural guarantees in connection with freedom of association, the right to bargain collectively, minimum labor standards,

and prevention of occupational injuries and illnesses.

The procedural guidelines for the NAO, published in the **Federal Register** on April 7, 1994, 59 FR 16660, specify that, in general, the Secretary of the NAO shall accept a submission for review if it raises issues relevant to labor law matters in Canada or Mexico and if a review would further the objectives of the NAALC.

U.S. Submission #9901 relates to labor law matters in Mexico. A review would appear to further the objectives of the NAALC, as set out in Article 1 of the NAALC, among them improving working conditions and living standards in each Party's territory, promoting the set of labor principles, and encouraging publication and exchange of information, data development and coordination to enhance mutually beneficial understanding of the laws and institutions governing labor in each Party's territory.

Accordingly, this submission has been accepted for review of the allegations raised therein. The NAO's decision is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objectives of the review will be to gather information to assist the NAO to better understand and publicly report on the freedom of association, the right to organize, and occupational safety and health raised in the submission, including the Government of Mexico's compliance with the obligations agreed to under Articles 2, 3, 4 and 5 of the NAALC. The review will be completed, and a public report issued, within 120 days, or 180 days if circumstances require an extension of time, as set out in the procedural guidelines of the NAO.

Signed at Washington, DC on January 7, 2000.

**Lewis Karesh,**

*Acting Secretary, U.S. National Administrative Office.*

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**BILLING CODE 4510-28-P**

## LIBRARY OF CONGRESS

### Copyright Office

[Docket No. 2000-3 CARP DTRA2]

### Digital Performance Right in Sound Recordings and Ephemeral Recordings

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Initiation of voluntary negotiation period.

**SUMMARY:** The Copyright Office is announcing the initiation of the voluntary negotiation period for determining reasonable rates and terms for two compulsory licenses, which in one case, allows public performances of sound recordings by means of eligible nonsubscription transmissions, and in the second instance, allows the making of an ephemeral phonorecord of a sound recording in furtherance of making a permitted public performance of the sound recording.

**EFFECTIVE DATE:** The voluntary negotiation period begins on January 13, 2000.

**ADDRESSES:** Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. 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, Attorney Advisor, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** In 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA"), Public Law 104-39, which created an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. Among the limitations on the performance was the creation of a new compulsory license for nonexempt, noninteractive, digital subscription transmissions. 17 U.S.C. 114(f).

The scope of this license was expanded in 1998 upon passage of the Digital Millennium Copyright Act of 1998 ("DMCA" or "Act"), Public Law 105-304, in order to allow a nonexempt eligible nonsubscription transmission and a nonexempt transmission by a preexisting satellite digital audio radio service to perform publicly a sound recording in accordance with the terms and rates of the statutory license. 17 U.S.C. 114(a).

An "eligible nonsubscription transmission" is a noninteractive, digital audio transmission which, as the name implies, does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that

provides audio programming consisting in whole or in part of performances of sound recordings which purpose is to provide audio or entertainment programming, but not to sell, advertise, or promote particular goods or services. A "preexisting satellite digital audio radio service" is a subscription digital audio radio service that received a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. *See* 17 U.S.C. 114(j) (6) and (10). Only two known entities, CD Radio and American Mobile Radio Corporation, qualify under the statutory definition as preexisting satellite digital audio radio services.

In addition to expanding the current section 114 license, the DMCA also created a new statutory license for the making of an "ephemeral recording" of a sound recording by certain transmitting organizations. 17 U.S.C. 112(e). The new statutory license allows entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in section 114(d)(1)(C)(iv), to make an ephemeral recording of a sound recording for purposes of a later transmission. The new license also provides a means by which a transmitting entity with a statutory license under section 114(f) can make more than the one phonorecord specified in section 112(a). 17 U.S.C. 112(e).

#### **Determination of Reasonable Terms and Rates**

The statutory scheme for establishing reasonable terms and rates is the same for both licenses. The terms and rates for the two new statutory licenses may be determined by voluntary agreement among the affected parties, or if necessary, through compulsory arbitration conducted pursuant to Chapter 8 of the Copyright Act.

If the affected parties are able to negotiate voluntary agreements, then it may not be necessary for these parties to participate in an arbitration proceeding. Similarly, if the parties negotiate an industry-wide agreement, an arbitration may not be needed. In such cases, the Librarian of Congress will follow current rate regulation procedures and notify the public of the proposed agreement in a notice and comment proceeding. If no party with a substantial interest and an intent to participate in an arbitration proceeding files a comment opposing the negotiated rates and terms, the Librarian will adopt the proposed terms and rates without convening a copyright arbitration royalty panel. 37 CFR 251.63(b). If,

however, no industry-wide agreement is reached, or only certain parties negotiate license agreements, then those copyright owners and users relying upon one or both of the statutory licenses shall be bound by the terms and rates established through the arbitration process.

Arbitration proceedings cannot be initiated unless a party files a petition for ratemaking with the Librarian of Congress during the 60-day period, beginning July 1, 2000. 17 U.S.C. 112(e)(7) and 114(f)(2)(C)(ii)(II).

On November 27, 1998, the Copyright Office initiated a six-month voluntary negotiation period in accordance with sections 112(e)(4) and 114(f)(2)(A) for the purpose of establishing rates and terms for these licenses for the period beginning on the effective date of the DMCA and ending on December 31, 2000. 63 FR 65555 (November 27, 1998). Parties to these negotiations, however, have been unable to reach agreement on the rates and terms, so in accordance with sections 112(e)(5) and 114(f)(1)(B) the Copyright Office has initiated arbitration proceedings to determine the rates and terms for use of the licenses through December 31, 2000. These proceedings are in progress. 64 FR 52107 (September 27, 1999).

#### **Initiation of the Next Round of Voluntary Negotiations**

Unless the schedule has been readjusted by the parties in a previous rate adjustment proceeding, sections 112(e)(7) and 114(f)(2)(C)(i)(II) of the Copyright Act require the publication of a notice during the first week of January 2000, and at 2-year intervals thereafter, initiating the voluntary negotiation periods for determining reasonable rates and terms for the statutory licenses permitting the public performance of a sound recording by means of certain digital transmissions and the making of an ephemeral recording in accordance with section 112(e).

This notice announces the initiation of these negotiation periods. They shall begin on January 13, 2000. Parties who negotiate a voluntary license agreement during this period are encouraged to submit two copies of the agreement to the Copyright Office at the above-listed address within 30 days of its execution.

#### **Petitions**

In the absence of a license agreement negotiated under 17 U.S.C. 112(e)(4) or 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. 112(e)(7), 114(f)(2)(C)(ii)(II), and 803(a)(1) and may be filed anytime during the sixty-day period beginning on July 1, 2000. *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.

Dated: January 7, 2000.

**David O. Carson,**

*General Counsel.*

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**BILLING CODE 1410-33-P**

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## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[Notice 00-001]

### **NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Space Utilization Advisory Subcommittee; Meeting**

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

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Space Station Utilization Advisory Subcommittee.

**DATES:** Wednesday, February 23, 2000, from 8:00 a.m. to 5:00 p.m.

**ADDRESSES:** Lunar and Planetary Institute, 3600 Bay Area Boulevard, Houston, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Ubran, Code UM, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358-0813.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting is as follows:

- Executive Presentations
- Response to Prior Recommendations
- Special Topics
- Development of Draft Recommendations
- Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.