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Before the
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MAR 17 2005

**GENERAL COUNSEL
OF COPYRIGHT**

In The Matter Of:

Docket No. 2005-1 CRJ DTRA

Digital Performance Right
in Sound Recordings and
Ephemeral Recordings



AMERICAN COUNCIL ON EDUCATION PETITION TO PARTICIPATE

Pursuant to 17 U.S.C. § 803(b)(1)(B) and 70 Fed. Reg. 7970, the American Council on Education (ACE) hereby petitions to participate in the above-captioned proceeding to adjust the rates and terms for 2006-2010 for eligible nonsubscription services to make certain public performances by digital audio transmission of sound recordings under 17 U.S.C. § 114(f)(2) and to make ephemeral recordings in furtherance of those performances under 17 U.S.C. § 112(e).

ACE is a membership organization open to accredited, degree-granting colleges and universities and higher education associations located within the United States. Members of ACE make or intend to make public performances of sound recordings by digital transmission and ephemeral recordings in furtherance thereof that will be subject to the rates and terms established in this proceeding, including, without limitation, at the websites of college and university radio stations. ACE members make or have made such public performances under the Section 112(e) and 114(f)(2) statutory licenses as noncommercial services pursuant to the rates and terms set forth in 37 C.F.R. § 261 *et seq.*, which rates and terms will be adjusted by this proceeding.

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The requisite \$150 filing fee is enclosed herewith.

Respectfully submitted,

Kenneth D. Salomon
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Kathleen E. Fuller
Its Attorneys

March 17, 2005

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