

**Before the
COPYRIGHT ROYALTY BOARD
Washington, D.C.**

_____)
In the Matter of)

)
Distribution of the 2003)
Cable Royalty Funds)
_____)

Docket No. 2005-4 CRB CD 2003

**COMMENTS OF PROGRAM SUPPLIERS
ON THE EXISTENCE OF A CONTROVERSY**

The Motion Picture Association of America, Inc. (“MPAA”), on behalf of its represented member companies and other MPAA-represented producers and/or distributors of syndicated series, movies, and specials broadcast by television stations (“Program Suppliers”), hereby submits the following comments in response to the request for comments published by the Copyright Royalty Judges (“CRJs”) on August 20, 2007. *See Distribution of the 2003 Cable Royalty Funds*, 72 Fed. Reg. 46516 (August 20, 2007) (“*Notice*”).¹

The *Notice* requests comments as follows: (1) whether there are any reasonable objections to Phase I Claimants’ Notice of Partial Phase I Settlement and Motion for Further Partial Distribution, filed on June 8, 2007 (“*Motion*”), concerning the 2003 cable royalty fund (“2003 Fund”); (2) whether additional conditions should be imposed on claimants entitled to receive the partial distribution; (3) the existence of outstanding Phase I and Phase II controversies for the 2003 Fund; (4) whether proceedings should be commenced immediately to resolve those outstanding controversies, or whether additional negotiation time is warranted; (5) whether existing Phase I program categories are adequate and, if not, why and which new

¹ The Canadian Claimants Group and the Public Television Claimants join in Sections I, II, III.A, VI, and VII of these Comments.

categories should be established by the CRJs; and (6) what process the CRJs should implement to ensure timely receipt of pleadings filed prior to the declaration of a controversy in royalty distribution proceedings. Program Suppliers address each of these issues below.

I. Phase I Claimants' Motion For Further Partial Distribution Should Be Granted.

As the Phase I Claimants noted in the Motion, sound policy considerations favor early partial distribution of royalties. Because there is often a substantial delay between the time that royalties are collected and the conclusion of distribution proceedings, both Congress and the Copyright Office ("Office") have recognized the importance of distributing the maximum amount of copyright royalties to copyright owners at the earliest possible date. *See* Motion at 5-6 (quoting H.R. Rep. No. 108-408 at 23 (2004); Order in Docket Nos. 94 CARP (92 CD), *et al.* at 2 (September 26, 1994); Order in Docket No. 94 CARP (92-CD & 93-CD) at 2 (September 12, 1994)). These same policy considerations favor distribution of the remaining amounts in the 2003 Fund at this time, and should be given considerable weight by the CRJs in addressing the Motion.

The requested partial distribution reflects a near-global Phase I settlement as to the 2003 Fund, among all established Phase I Claimants, with the exception of the Canadian Claimants Group. Motion at 1-2.² Further, importantly, even the Canadian Claimants Group, the sole remaining non-settling Phase I Claimant, has agreed to the distribution, and is a party to the Motion. By narrowing the issues necessary for resolution by the CRJs, the Phase I Claimants'

² As further noted in the Motion, the Phase I Claimants' partial settlement of the 2003 Fund is a part of a multi-year settlement resolving all outstanding Phase I controversies for the 2000, 2001, 2002, and 2003 cable royalty funds, with the sole unresolved issue being the Canadian Claimants Group's share for each of those years. *Id.* at 2. The Motion's four-step request for further partial distribution of the 2003 Fund is nearly identical to a request approved by the Office earlier this year, whereby the Phase I Claimants received further partial distribution of the 2000, 2001, and 2002 cable royalty funds in light of their partial Phase I settlement. *See id.* (citing Order issued in Docket Nos. 2001-8 CARP CD 98-99, 2002-8 CARP CD 2000, 2003-2 CARP CD 2001, 2004-5 CARP CD 2002 at 6 (April 3, 2007) ("April 3 Order"); *clarified by* Clarification Order (April 6, 2007); *further clarified by* Order (April 10, 2007)).

early Phase I settlement is efficient, and should be encouraged. All parties to the Motion have stipulated that the proposed Phase I reserve amount is sufficient to cover not only the sole remaining Phase I controversy, but also the Devotional Claimants' undistributed Phase I award. These factors all favor approval of the requested distribution and proposed Phase I reserve amount.

II. The CRJs Should Impose No Conditions On The Partial Distribution That Are Not Provided In the Statute.

The only conditions that can be placed on the request for partial distribution are those provided under 17 U.S.C. § 801(b)(3)(C). Section 801(b)(3)(C) was specifically enacted as a part of the Copyright Royalty Judges Program Technical Corrections Act to address the concern that under the initially enacted Copyright Royalty and Distribution Reform Act of 2004 ("CRDRA"), partial distributions could not be authorized without the commencement of a proceeding. Section 801(b)(3)(C) specifies the only conditions intended by Congress to be imposed on the parties for partial distributions. Imposing additional requirements would be contrary to the explicit statutory language.

The CRJs have been steadfast about adhering to their statutory mandate. For example, the CRJs denied a request for partial distribution prior to the Section 801(b)(3)(C) revisions because they believed the prior statutory language of Section 801(b)(3)(C) did not permit a partial distribution unless a distribution proceeding had already been commenced. *See* Distribution Order, Docket No. 2005-4 CRB CD 2003 (October 26, 2005) (denying request for partial distribution). Similarly, the CRJs rejected a proposal to impose a condition on an earlier partial distribution of the 2003 Fund requiring the common agent receiving the distribution to hold the funds until all Phase II controversies were resolved. *See Notice* at 46518 (citing Distribution Order, Docket No. 2005-4 CRB CD 2003 at 2 (August 23, 2006) ("Not only would

IPG's request frustrate the purpose of making a Phase I partial distribution, it is contrary to well-established precedent.”). Program Suppliers urge the CRJs to reject any conditions on partial distribution not required by law.

III. Outstanding Phase I And Phase II Controversies As To The 2003 Fund

Program Suppliers provide the following comments regarding the existence of Phase I and Phase II controversies for the 2003 Fund.

A. Phase I Controversies

As noted in the Motion, a Phase I controversy exists between the Canadian Claimants Group and all other Phase I Claimants as to the 2003 Fund. Program Suppliers are not aware of any other Phase I controversies as to the 2003 Fund. In its October 2005 filings, Independent Producers Group (“IPG”) asserted both Phase I and Phase II controversies as to the 2003 Fund on behalf of unnamed parties. *Notice* at 46516-17. As IPG has not established its status as a party with entitlement to royalties in a distribution proceeding, *see Notice* at 46518-19, n.5, and has a history of exaggerating the nature and extent of its claims, *see Reply in Support of Motion of Phase I Claimants for Distribution of Royalties, Docket No. 2005-4 CRB CD, at 2-3, n.2 (filed August 16, 2006)*, there is no reasonable means to quantify or otherwise comment on the validity or size of any potential controversies with IPG in the Program Suppliers’ or any other category. To the extent that the CRJs determine that IPG actually represents a party with a legitimate claim to royalties in the Program Suppliers category in the 2003 Fund, or any other funds, the MPAA-represented Program Suppliers have a Phase II controversy with IPG.

B. Phase II Controversies

No settlement has yet been reached between the MPAA-represented Program Suppliers and other possible claimants in the Program Suppliers category for the 2003 Fund. As a result,

Phase II controversies exist between the MPAA-represented Program Suppliers and all other parties asserting a claim to royalties within the Program Suppliers category. Based on comments submitted to the CRJs in fall of 2005, Phase II Program Suppliers controversies exist as to the 2003 Fund between the MPAA-represented Program Suppliers and the following parties: (1) IPG (*see discussion supra*); (2) HSN LP, AST LLC, Home Shopping En Espangol GP, USA Broadcast Productions, Studios USA, InterActive Corp. (collectively, “HSN”); and (3) the National Association of Broadcasters (“NAB”).³

Recently, in response to a similar motion for further partial distribution by the Phase I Claimants as to the 2000, 2001 and 2002 cable royalty funds, *see note 1, supra*, the Office determined that a reserve of \$15 million of the 2002 cable royalty fund (“2002 Fund”) was adequate to cover all outstanding Phase I and Phase II controversies. *See April 3 Order at 3; clarified by Clarification Order (April 6, 2007); further clarified by Order (April 10, 2007)*. Program Suppliers view the Office’s \$15 million reserve amount as larger than necessary to resolve all outstanding controversies as to the 2002 Fund. However, because the outstanding Phase I and Phase II controversies identified by the Office as to the 2002 Fund are virtually identical to those outstanding Phase I and Phase II controversies remaining as to the 2003 Fund, *see April 3 Order at 2-3*, as an alternative to what the Phase I Claimants propose in the Motion, Program Suppliers urge the CRJs to reserve no more than \$15 million of the 2003 Fund to satisfy all outstanding Phase I and Phase II controversies.

IV. Commencement Of Phase I Proceedings

The *Notice* solicits comments on whether a proceeding should be commenced to resolve any of the Phase I controversies identified by the parties in their comments, or if additional time

³ The same Phase II controversy that exists between the MPAA-represented Program Suppliers and NAB as to the 2003 Fund exists for the 1998-2002 cable royalty funds as well.

is requested for negotiation before a proceeding is commenced. *Notice* at 46519. Due to the large backlog of undistributed cable royalties now under the CRJs' jurisdiction, Program Suppliers urge the CRJs to promptly commence a Phase I cable royalty distribution proceeding for the 2004 to 2005 funds ("2004-05 Proceeding"), and that Phase I negotiations, if necessary, should take place within the three-month voluntary negotiation period following commencement of a proceeding. 17 U.S.C. § 803(b)(3). Further, if necessary, the CRJs may consolidate the 2004-05 Proceeding with the proceeding to resolve Phase I of the 2003 Fund.

On July 16, 2007, Program Suppliers filed their Petition to Declare Controversy and Initiate a Phase I Proceeding for the Distribution of the 2004 and 2005 Cable Royalty Funds ("Petition"), which is currently pending before the CRJs. Because no parties have settled their Phase I claims as to the 2004 and 2005 cable royalty funds ("2004-05 Funds"), a controversy exists as to the distribution of more than \$270 million in 2004-05 Funds, involving all claimants and a broad array of issues. *See* Reply Comments of Program Suppliers on the Petition to Declare a Controversy and Commence a Phase I Proceeding ("Reply Comments"), filed July 27, 2007, at 3, n.4. In contrast, the sole ongoing Phase I controversy with regard to the 2003 Fund concerns the distribution of less than \$8.3 million in cable royalties to a single Phase I Claimant, the Canadian Claimants Group, and revolves around a narrow issue of the methodological approach appropriate for calculating the Canadian Claimants Group's share.

The resolution of the 2004-05 Proceeding should take precedence in light of the large amount of royalties at stake and the broader array of issues to be resolved. Not only is there no statutory or regulatory requirement that cable distribution proceedings be resolved in chronological order, *id.* at 2-3, the settling 2003 Phase I Claimants should not be forced to delay resolution of subsequent (and much larger) royalty funds while the Canadian Claimants Group

litigates its individual share of the 2003 Fund. In the course of the 2004-05 Proceeding, the CRJs would resolve the methodological issue concerning the Canadian Claimants Group's share, and have that resolution also control Canadian Claimants Group's share of the 2003 Fund. Petition at 2-3; Reply Comments at 2, n.2. Such a procedure will not prejudice any party, and would more quickly reduce the backlog of cases pending before the CRJs. Otherwise, holding later funds hostage in this way works hardship on claimants who have settled and could have a chilling effect on future settlements.

In the alternative, if the CRJs determine that a Phase I proceeding should be commenced immediately as to the 2003 Fund, that proceeding should be consolidated with the 2004-05 Proceeding. *See* Comments of the Canadian Claimants Group on the Petition to Declare Controversy and Initiate a Phase I Proceeding at 1 (filed July 23, 2007). Because the same narrow methodological issue that exists as to the 2003 Fund also exists for the 2004-05 Funds, considering this same issue in a consolidated distribution proceeding would both promote administrative efficiency and judicial economy.⁴

If a Phase I proceeding is commenced, Program Suppliers intend to participate fully in those proceedings. Program Suppliers will represent the interests of the producers and/or distributors of syndicated series, movies, and specials broadcast on stations whose signals were carried as distant signals on cable television systems during the years in question.

V. Commencement Of Phase II Proceedings

As reported above, Phase II controversies exist in the syndicated programming and movies category as to the 2003 Fund between the MPAA-represented Program Suppliers and two established Phase II claimants in the Program Suppliers category: (1) HSN and (2) NAB.

⁴ A further consolidation with Phase I proceedings for the 2000-2002 cable royalty funds should also be considered, as the same narrow methodological issue remains outstanding between the Canadian Claimants Group and the other Phase I Claimants for those royalty years as well.

MPAA has successfully settled past Phase II controversies with HSN as to the 2000 and 2001 cable royalty funds, and believes that, if afforded additional time to negotiate, it may be able to arrive at a settlement of its outstanding Phase II controversies with HSN without the need for a hearing. MPAA also remains optimistic that continued Phase II negotiations with NAB will result in the resolution of the ongoing Phase II controversy between NAB and the MPAA-represented Program Suppliers. Accordingly, the MPAA-represented Program Suppliers propose that no Phase II proceeding be commenced at this time to allow negotiations in the Program Suppliers category to continue. In the unlikely event that any of these Phase II negotiations reach an impasse, the MPAA-represented Program Suppliers intend to promptly file a petition to commence a Phase II distribution proceeding to resolve the outstanding controversies. If Phase II hearings are ultimately necessary on issues involving the interests of syndicated programming and movie owners, MPAA intends to participate fully in those hearings. MPAA will represent the producers and/or distributors of syndicated series, movies, and specials who have agreed to representation by MPAA.

VI. Certification Of Additional Phase I Programming Categories

The *Notice* requested comments regarding whether the programming categories into which the Phase I Claimants have traditionally divided themselves are adequate to represent the interests of all claimants, or whether additional categories should be recognized. *Notice* at 46519. Program Suppliers neither favor nor support the creation of additional programming categories because no additional categories are necessary to adequately represent the interests of all claimants. As the Copyright Royalty Tribunals (“CRTs”), Copyright Arbitration Royalty Panels (“CARPs”), and the Librarian of Congress (“Librarian”) have recognized in the past, the claimants have traditionally been divided into eight recognized programming categories during

Phase I proceedings. *Notice* at 46516, n.1. These eight categories evolved over many years of cable compulsory license practice and owe their development to the careful consideration of the CRTs, the CARPs, and the Librarian. These various past rulings of those decisionmakers on the issue of program categorization culminated in a 1996 stipulation signed by all Phase I Parties (except the Music Claimants and National Public Radio) that defined the programming categories that are in place today. *See Stipulation of the Parties on the Issues of Program Categorization and Scope of Claims*, Docket No. 94-3, CARP CD 90-92 (filed February 23, 1996) (attached hereto as Exhibit A) (“Stipulation”). The Stipulation successfully reduced, if not virtually eliminated, numerous disputes that had been raised regarding program categorization and continues to be relied on by the parties as a basis for program categorization, both in settlement negotiations and in distribution proceedings.⁵ The Stipulation has provided a clear understanding of the Phase I categories, making royalty awards comparable from year to year. Introducing additional program categories would upset the parties’ settled expectations, create new controversies regarding program categorization, and prolong the pending proceedings before the CRJs.

Given these circumstances, a party advocating a new program category should, at a minimum, offer a compelling reason for establishing the new programming category, including demonstrating not only the uniqueness of such a category but, also, the inability of the existing Phase I categories to encompass such programming. The CRJs’ request for comments on this issue appears to stem from IPG’s inchoate desire to formulate a separate programming category for Spanish-language programming at some unspecified future date. *Notice* at 46517-18

⁵ Indeed, in the last litigated Phase I cable distribution proceeding, the Stipulation was admitted into evidence as a Demonstrative Exhibit, and was relied on by the parties as establishing the programming categories for that proceeding. *See PS Demo Ex. 4*, Docket No. 2001-8 CARP CD 98-99 (admitted May 8, 2003).

(quoting various IPG pleadings). However, IPG has neither provided examples of unique programming it believes should fit within its unspecified category (other than those programs merely broadcast in Spanish), nor provided any proof that this programming is not adequately represented by existing Phase I categories.

Precedent counsels against the creation of a separate Phase I programming category for Spanish-language programming, because that programming was long ago deemed encompassed within existing programming categories. In the 1979 cable royalty distribution proceeding, the CRT determined that Spanish International Network (“SIN”) (now Univision Communications Inc. (“Univision”)), was not a separate Phase I claimant, but a Phase II claimant in the syndicated programming and movies category. *See 1979 Cable Royalty Distribution Determination*, 47 Fed. Reg. 9879, 9896-97 (March 8, 1982). This ruling was reaffirmed in the 1980 and 1981 cable royalty distribution proceedings, and expanded to include SIN as a Phase II claimant in the Joint Sports category in the 1982 cable royalty distribution proceeding. *See 1980 Cable Royalty Distribution Proceeding*, 48 Fed. Reg. 9552, 9569 (March 7, 1983); *1981 Cable Royalty Distribution Proceeding*, 49 Fed. Reg. 7845, 7848 (March 24, 1984); *1982 Cable Royalty Distribution Proceeding*, 49 Fed. Reg. 37653, 37656-57 (Sept. 25, 1984). Indeed, Univision, the leading Spanish-language media company in the United States, along with other producers and syndicators of Spanish-language programming, have long been MPAA-represented Program Supplier claimants. Spanish-language programming is also already represented in other Phase I programming categories, including Joint Sports, Commercial Television, Public Television, Devotional, and National Public Radio. In short, Spanish-language programming is already fully represented by the existing programming categories, thus no separate Spanish-language programming category is required.

VII. Service Of Pleadings Filed Prior To The Commencement Of A Proceeding

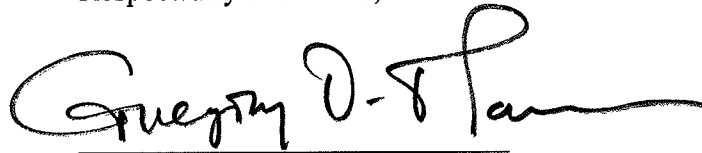
In the *Notice*, the CRJs request comment regarding what action the CRJs should take to ensure timely receipt of pleadings filed prior to the commencement of a proceeding. In order to ensure that all affected parties receive notice that a pleading has been filed during the period prior to the commencement of a proceeding, Program Suppliers propose that the CRJs, in each such case, establish a practice of publishing a notice in the Federal Register informing all interested claimants of the filing and associated response deadlines. Additionally, Program Suppliers propose that the CRJs amend their regulations to calculate the deadlines for responsive pleadings (*e.g.*, oppositions and replies) in such cases based on the date that those pleadings are noticed by the CRJs in the Federal Register, rather than on the date such pleadings are officially filed with the CRJs. *See* 37 C.F.R. § 350.4(f).

In addition to the Federal Register notice, the CRJs' proposal to post all incoming filings on their website offers all claimants a prompt means of receiving pleadings filed prior to the commencement of a proceeding and, thus, offers a practical means of serving interested parties before an official service list is compiled pursuant to 37 C.F.R. § 350.4(g). Once the CRJs establish their website as a source for such filings, potential participants will have a readily-accessible source to check for such filings. Posting pleadings on the CRJs' website ensures that all parties have an opportunity to receive pleadings promptly and simultaneously.

However, utilizing the CRJs' website for making pre-controversy pleadings available to interested parties would not take the place of a Federal Register notice regarding the filing. Notice in the Federal Register is the only recognized presumptive notice of filings. *See* 44 U.S.C. § 1507; *see also Jones v. U.S.*, 121 F.3d 1327, 1330 (9th Cir. 1997) ("Publication in the Federal Register is legally sufficient notice to all interested or affected persons regardless of

actual knowledge or hardship resulting from ignorance.”); *Utility Solid Waste Activities Group v. E.P.A.*, 236 F.3d 749, 754 (D.C. Cir. 2001) (“This court has never found that Internet notice is an acceptable substitute for publication in the Federal Register, and we refuse to do so now.”). Therefore, Program Suppliers urge the CRJs to adopt Federal Register notice as the official source of noticing a pleading filed before the commencement of a proceeding. In this regard, Program Suppliers urge the CRJs to modify section 37 C.F.R. 350.4(f) to allow the time for filing oppositions and replies for pleadings filed prior to the commencement of a proceeding to be calculated based on the date of the Federal Register notice, to lessen the potential impact that an administrative delay in posting the items would have on the claimants in meeting the response deadlines dictated by the CRJ regulations.

Respectfully submitted,



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September 19, 2007

EXHIBIT A

Before the
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)	
In the Matter of:)	
)	
1990-1992 Cable Royalty)	Docket No. 94-3. CARP CD 90-92
Distribution Proceeding)	
)	

**STIPULATION OF THE PARTIES ON THE ISSUES OF
 PROGRAM CATEGORIZATION AND SCOPE OF CLAIMS**

The undersigned parties, representing all Phase I parties to the 1990-1992 cable royalty funds, file this stipulation with respect to an issue they believe has been raised by the Panel in questions to various witnesses testifying on behalf of the Devotional Claimants and others. The issue concerns the extent to which Phase I claims are being prosecuted by fewer than all of the claimants whose programs are included within the Phase I program category.

Since the first cable royalty distribution, covering 1978, the Copyright Royalty Tribunal divided its royalty distribution cases into Phase I and Phase II proceedings. In Phase I, the Tribunal allocated the entire royalty fund among broadly defined Phase I program categories. In Phase II, to the extent necessary, the Tribunal resolved disputes among different claimants or groups of claimants within a single Phase I category as to the internal division of the category's Phase I allocation.

The Phase I categories themselves developed over the course of the first five years of Tribunal proceedings. In response to requests by various parties for

rulings on close or disputed questions about particular programs. the Tribunal refined the category definitions through declaratory rulings and rulings published as part of its final determinations. See, e.g., 1984 Cable Royalty Distribution Proceeding, 52 Fed. Reg. 8408, 8416 (Mar. 17, 1987); Advisory Opinion, Docket No. CRT 85-4 84 CD (May 16, 1986). For the 1990-1992 proceeding, the parties stipulate that the following Phase I category definitions, based on these prior Tribunal rulings, should apply:

Phase I Program Category Definitions

"Program Suppliers." Syndicated series, specials and movies, other than Devotional Claimants programs as defined below. Syndicated series and specials are defined as including (1) programs licensed to and broadcast by at least one U.S. commercial television station during the calendar year in question, (2) programs produced by or for a broadcast station that are broadcast by two or more U.S. television stations during the calendar year in question, and (3) programs produced by or for a U.S. commercial television station that are comprised predominantly of syndicated elements, such as music video shows, cartoon shows, "PM Magazine," and locally hosted movie shows.

"Joint Sports." Live telecasts of professional and college team sports broadcast by U.S. and Canadian television stations, except for programs coming within the Canadian Claimants category as defined below.

"Commercial Television." Programs produced by or for a U.S. commercial television station and broadcast only by that one station during the calendar year in question and not coming within the exception described in subpart 3) of the "Program Suppliers" definition.

"Public Broadcasting." All programs broadcast on U.S. noncommercial educational television stations.

"Devotional Claimants." Syndicated programs of a primarily religious theme, not limited to those produced by or for religious institutions.

"Canadian Claimants." All programs broadcast on Canadian television stations, except (1) live telecasts of Major League Baseball, National Hockey League, and U.S. college team sports, and (2) other programs owned by U. S. copyright owners.

These categories are intended to cover all non-network television programs on all stations retransmitted as distant signals by U.S. cable systems during 1990-1992, on a mutually exclusive basis. The six categories are represented in the Phase I proceedings, respectively, by the undersigned parties. Some of those categories are principally represented by trade associations or other pre-existing entities, while others are represented by ad hoc groups of claimants within the category which have joined together for the purpose of the Phase I hearing. In either case, the relationships between the claimants and the Phase I representatives are a matter of private agreement and are not at issue in this Phase I proceeding. In all cases, the Phase I representatives are seeking a Phase I royalty allocation for all programs within the category.

The final distribution of royalties to individual claimants whose programs are within each category will follow either a settlement among all claimants within the category or the resolution of any disputes through a separate Phase II proceeding. The extent to which the particular Phase I party actually represents the ultimate interests of each and every claimant within the category has historically been addressed, if necessary, in Phase II.

A related issue is the extent to which timely claims were filed with the Copyright Office for all programs contained within each Phase I category. If the owner of a program that fits within one of the Phase I categories fails to file a claim, it might be argued that the Phase I allocation to the category should

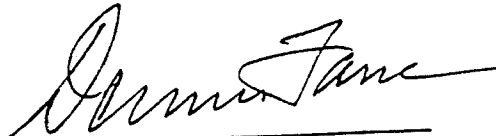
somehow be proportionally diminished. This so-called "unclaimed funds" issue, however, was resolved by the Tribunal in the course of its 1978 proceeding. The Tribunal determined that, for Phase I purposes, it should treat each category as if claims had been filed for all included programs. 1978 Cable Royalty Distribution Determination, 45 Fed. Reg. 63026, 63042 (Sept. 23, 1980).

The parties stipulate that the Panel should apply the same approach in this proceeding as the Tribunal did in the past, and should allocate all royalties among the six Phase I categories on the basis of all retransmitted programs coming within the respective definitions of those categories.

The parties would be pleased to discuss any aspect of this Stipulation with the members of the Panel at the Panel's convenience.

Respectfully submitted,


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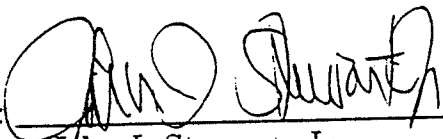
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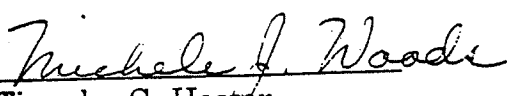
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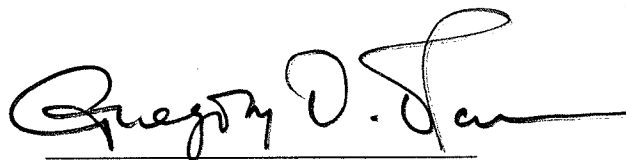
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A handwritten signature in black ink, appearing to read "Gregory O. Olaniran", written over a horizontal line.

Gregory O. Olaniran

Dated: September 19, 2007