Before
The Copyright Royalty Board
Library of Congress

Distribution of the 2008 Cable Royalty Funds Docket No. 2010-6 CRB CD 2008

Comments of National Public Radio, Inc.

By Federal Register notice dated October 29, 2010, 75 Fed. Reg. 66798, the Copyright Royalty Board ("Board") solicited comment on (1) the motion for partial distribution filed by the parties representing the Phase I claimant categories to which Section 111 cable royalties have been allocated in prior cable distribution proceedings (collectively, “Phase I Parties”) and (2) the existence of Phase I and Phase II controversies with respect to the distribution of the 2008 cable royalty funds. As a Phase I Party, National Public Radio, Inc. ("NPR") hereby submits its comments in support of the motion and advises the Board with respect to Phase I and Phase II controversies.

No Controversy Precludes Distribution of 50 Percent of the 2008 Cable Royalty Funds

As a longstanding Phase I claimant, NPR participated in the joint motion requesting the distribution of 50 percent of the 2008 cable royalty funds. See 75 Fed. Reg. at 66799 n.1. As set forth in that motion, there is nothing to preclude the distribution of 50 percent of the 2008 cable royalty funds, even though all the 2008 cable royalty funds remain in dispute at this time. Among other reasons, distribution of the funds is subject to the condition that, in the event the final percentage shares to Phase I claimants differ from the distributions made pursuant to the motion, any overpayment that results from the partial distribution must be repaid with interest in
accordance with the agreement to be executed under Section 801(b)(3)(C)(ii) of the Copyright Act. Accordingly, while all the 2008 cable royalty funds remain in dispute, no claimant will be deprived of the share of the 2008 cable royalty funds to which it subsequently may be entitled, notwithstanding the partial distribution.

**Existence of Controversy**

With respect to Phase I of the 2008 cable royalty distribution proceeding, the share of funds to be allocated to NPR and the other Phase I claimant groups is still in controversy. While NPR will seek to resolve this matter through settlement, the Board should note that, given the absence of a settlement to date, there presently exists a controversy with respect to NPR’s Phase I joint claim to the 2008 cable royalty funds. With respect to Phase II, NPR is not aware of any Phase II claim or controversy with respect to the share to be awarded to NPR and its participating member stations for the 2008 cable royalty funds. At the same time, there is also no Phase II settlement to report at this time.

Respectfully submitted,

Joyce Slocum  
Texas Bar No. 18508300  
Gregory A. Lewis  
DC Bar No. 420907  
NATIONAL PUBLIC RADIO  
635 Massachusetts Avenue, NW  
Washington, DC 20001-3753  
Telephone: (202) 513-2050  
Fax: (202) 513-3021  
glewis@npr.org

Date: November 29, 2010
CERTIFICATE OF SERVICE

I, Gregory A. Lewis, hereby certify that a courtesy copy of the foregoing “Comments of National Public Radio” was sent to the following via first class mail, postage prepaid, this 29th day of November, 2010:

COMMERCIAL TELEVISION CLAIMANTS

John I. Stewart, Jr.
Jennifer H. Burdman
Ann Mace
Crowell & Moring, LLP
1001 Pennsylvania Ave., N.W.
Washington, D.C. 2004-2595

JOINT SPORTS CLAIMANTS

Robert Alan Garrett
Stephen K. Marsh
Marco A. Palmieri
Arnold & Porter LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004-1206

MUSIC CLAIMANTS

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS

Joan M. McGivern
Samuel Mosenkis
ASCAP
One Lincoln Plaza
New York, NY 10023

MARVIN L. BERENSON

Joseph J. DiMona
Broadcast Music, Inc.
7 World Trade Center
250 Greenwich Street
New York, NY 10007-0030

SESAC, INC.

John C. Beiter
Loeb & Loeb
1906 Acklen Avenue
Nashville, TN 37212-3700

MICHAEL J. REMINGTON

Jeffrey Lopez
Philip J. Cardinale
Drinker Biddle & Reath LLP
1500 K Street, NW – Suite 1100
Washington, D.C. 20005

PUBLIC TELEVISION CLAIMANTS

Ronald G. Dove, Jr.
Lindsey Tonsager
Covington & Burling, LLP
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2401

PROGRAM SUPPLIERS

Gregory O. Olaniran
Dennis Lane
Lucy Holmes Plovnick
Mitchell Silberberg & Knupp, LLP
1818 N Street, N.W. 8th Floor
Washington, D.C. 20036
CANADIAN CLAIMANTS GROUP

L. Kendall Satterfield
Finkelstein, Thompson, LLP
1050 30th Street, NW
Washington, D.C. 20007

DEVOTIONAL CLAIMANTS

Clifford H. Harrington
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, D.C. 20037

Edward S. Hammerman
Hammerman, PLLC
5335 Wisconsin Avenue, NW
Suite 440
Washington, DC 20015-2052

Wendell R. Bird
Jonathan T. McCants
Bird, Loechl, Brittain, & McCants LLC
1150 Monarch Plaza
3414 Peachtree Road, N.E.
Atlanta, GA  30326

Arnold P. Lutzker
Allison L. Rapp
Jeannette M. Carmadella
Lutzker & Lutzker LLP
1233 20th Street, NW, Suite 703
Washington, D.C. 20036

W. Thad Adams III
Adams Evans P.A.
Suite 2350 Charlotte Plaza
201 South College Street
Charlotte, NC  28244

George R. Grange, II
Kenneth E. Liu
Gammon & Grange, PC
8280 Greensboro Drive, 7th Floor
McLean, VA  22102

INDEPENDENT PRODUCERS GROUP

Brian D. Boydston
Pick & Boydston, LLP
617 S. Olive Street, Suite 400
Los Angeles, CA  90014

Gregory A. Lewis