

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

_____)	
<i>In re</i>)	
)	
Distribution of Cable Royalty Funds)	Docket No. 19-CRB-0010-CD
_____)	
)	
<i>In re</i>)	
)	
Distribution of Satellite Royalty Funds)	Docket No. 19-CRB-0011-SD
_____)	

**SUPPLEMENTAL MEMORANDUM REGARDING THE ALLOCATION PHASE
PARTIES' MOTIONS FOR PARTIAL DISTRIBUTIONS OF 2018 CABLE AND
SATELLITE ROYALTIES**

In May, the undersigned Allocation Phase Parties filed motions for partial distributions of 40% of the 2018 cable and satellite royalty funds pursuant to Section 801(b)(3)(C) of the Copyright Act, 17 U.S.C. § 803(b)(3)(C).¹ Together, these Motions seek the distribution of approximately \$94 million in 2018 cable and satellite royalties on deposit with the Copyright Office. The Allocation Phase Parties submit this supplemental memorandum to report on the status of these requests and to respectfully request that the Judges promptly grant their Motions.

No party has asserted a reasonable objection to the requested partial distributions. As required by Section 801(b)(3)(C), on May 18, 2020, the Judges published notices in the Federal Register seeking comment on both of the Allocation Phase Parties' partial distribution requests. Distribution of 2018 Cable Royalty Funds, 85 Fed. Reg. 29,753 (May 18, 2020); Distribution of

¹ See Motion of the Allocation Phase Parties for Partial Distribution of 2018 Cable Royalty Funds, 10-CRB-0010-CD (May 11, 2020); Motion of the Allocation Phase Parties for Partial Distribution of 2018 Satellite Royalty Funds, 19-CRB-0011-SD (May 11, 2020). Public Television Claimants, Canadian Claimants Group, and NPR do not participate in proceedings concerning the distribution of satellite royalties, and therefore did not join the Allocation Phase Parties' motion for partial distribution of the 2018 satellite royalty funds.

2018 Satellite Royalty Funds, 85 Fed. Reg. 29,753 (May 18, 2020). Only one party, David Powell, filed a response to the Judges’ notices. *See* Comments and or Objection to 2018 40% Satellite and Cable Partial Distribution of Royalty Funds, 19-CRB-0011-SD (2018) & 19-CRB-0010-CD (2018) (June 17, 2020). Mr. Powell fails to raise a reasonable objection to either requested partial distribution. Mr. Powell’s comments are indecipherable, and fail to demonstrate even that Mr. Powell is entitled to a distribution of 2018 cable or satellite royalties at all, much less that the funds that are the subject of the parties’ partial distribution requests are in controversy. Indeed, Mr. Powell—who has never been found to be entitled to any royalties collected pursuant to the cable and satellite compulsory licenses—has a long track record of filing meritless objections to partial distribution requests, of which this is merely the latest example. *See, e.g.*, Order Granting Allocation Phase Parties’ Motion for Partial Distribution of 2015 Satellite Royalties, 17-CRB-0011-SD (2015) (Nov. 7, 2018) (ordering the partial distribution of 60% of the 2015 satellite royalty fund, notwithstanding Mr. Powell’s objections, which the Judges found to be “barely comprehensible” and devoid of “cogent arguments in opposition to the requested distribution”).

For all of the above reasons, the Allocation Phase Parties respectfully request that the Judges grant their Motions at the Judges’ first convenience. Prompt action on the Motions is particularly important given the financial challenges posed by the pandemic.

August 10, 2020

Respectfully Submitted,

PROGRAM SUPPLIERS

/s/ Gregory Olaniran

Gregory O. Olaniran
D.C. Bar No. 455784
Lucy Holmes Plovnick
D.C. Bar No. 488752
MITCHELL SILBERBERG & KNUPP
LLP
1818 N Street N.W., 8th Floor
Washington, D.C. 20036
Telephone: (202) 355-7817
Fax: (202) 355-7887
goo@msk.com
lhp@msk.com

JOINT SPORTS CLAIMANTS

/s/ Michael Kientzle

Daniel A. Cantor
DC Bar No. 457115)
Michael Kientzle
DC Bar No. 1008361
ARNOLD & PORTER KAYE SCHOLER
LLP
601 Massachusetts Avenue, N.W.
Washington, D.C. 20001
202.942.5000 (voice)
202.942.5999 (facsimile)
Daniel.Cantor@arnoldporter.com
Michael.Kientzle@arnoldporter.com

PUBLIC TELEVISION CLAIMANTS

/s/ Ronald Dove

Ronald G. Dove, Jr.
DC Bar No. 430533
Dustin Cho
DC Bar No. 1017751
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, N.W.
Washington, D.C. 20268
Telephone: (202) 662-5685
Fax: (202) 662-6291
rdove@cov.com

**COMMERCIAL TELEVISION
CLAIMANTS**

/s/ David Ervin

John I. Stewart, Jr.
DC Bar No. 913905
David Ervin
DC Bar No. 445013
CROWELL & MORING LLP
1001 Pennsylvania Ave., NW
Washington, DC 20004-2595
Telephone: (202) 624-2685
Fax: (202) 628-5116
jstewart@crowell.com

CANADIAN CLAIMANTS GROUP

/s/ Victor Cosentino

Victor J. Cosentino
LARSON & GASTON, LLP
CA Bar No. 163672
200 S. Los Robles Ave, Suite 530
Pasadena, CA 91101
Tel: (626) 795-0016
victor.cosentino@larsongaston.com

DEVOTIONAL CLAIMANTS

/s/ Arnold Lutzker

Arnold P. Lutzker
DC Bar No. 101816
Benjamin Sternberg
DC Bar No. 1016576
Jeannette M. Carmadella
DC Bar No. 500586
LUTZKER & LUTZKER LLP
1233 20th Street, NW, Suite 703
Washington, DC 20036
Telephone: (202) 408-7600
Fax: (202) 408-7677
arnie@lutzker.com

Matthew J. MacLean
DC Bar No. 479257
Michael A. Warley
DC Bar No. 1028686
Jessica T. Nyman
D.C. Bar No. 1030613
PILLSBURY WINTHROP SHAW
PITTMAN LLP
1200 Seventeenth Street, NW
Washington DC 20036
Tel: (202) 663-8183
Fax: (202) 663-8007
Matthew.MacLean@pillsburylaw.com

NATIONAL PUBLIC RADIO

/s/ Gregory Lewis

Jonathan D. Hart
DC Bar No. 404828
Gregory A. Lewis
DC Bar No. 420907
NATIONAL PUBLIC RADIO, INC.
1111 North Capitol Street, NE
Washington, DC 20002
Telephone: (202) 513-2050
Fax: (202) 513-3021
glewis@npr.org

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS

/s/ Samuel Mosenkis

Samuel Mosenkis
NY Bar No. 2628915
ASCAP
250 West 57th Street, 14th Floor New York,
NY 10107
Telephone: (212) 621-6450
Fax: (212) 787-1381 smosenkis@ascap.com

BROADCAST MUSIC, INC.

/s/ Brian Coleman

Brian A. Coleman
DC Bar No. 459201
Jennifer T. Criss
DC Bar No. 981982
FAEGRE DRINKER BIDDLE & REATH
LLP
1500 K Street, NW – Suite 1100
Washington, DC 20005
Telephone: (202) 842-8800
Fax: (202) 842-8465
brian.coleman@faegredrinker.com
jennifer.criss@faegredrinker.com

Hope M. Lloyd
NY Bar No. 3903754
BROADCAST MUSIC, INC.
7 World Trade Center
250 Greenwich Street
New York, NY 10007-0030
Telephone: (212) 220-3148
Fax: (212) 220-4490
hlloyd@bmi.com

SESAC PERFORMING RIGHTS, LLC

/s/ John Beiter

John C. Beiter

TN Bar No. 12564

Beiter Law Firm, PLLC

P.O. Box 120433

Nashville, TN 37212

Telephone: (615) 488-0088

john@beiterlaw.com

Christos P. Badavas

NY Bar No. 2673838

SESAC PERFORMING RIGHTS, LLC

152 West 57th Street, 57th Floor

New York, NY 10019

Telephone: (212) 586-3450

cbadavas@sesac.com