

**Before the  
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The Library of Congress**

**In re**

**DISTRIBUTION OF CABLE  
ROYALTY FUNDS**

**Docket No. 16-CRB-0009-CD (2014-2017)**

**JOINT ISSUES OUTLINE OF POST-HEARING BRIEFS AND  
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**I. Standard for distribution**

A. All parties agree that the standard to be applied for the distribution of royalties is “relative market value.” What is “relative market value”?

|                | <b>PTV</b>  | <b>JSC</b>                               | <b>SDC</b> | <b>CCG</b>            | <b>CTV</b>            | <b>PS</b>  |
|----------------|-------------|--|------------|-----------------------|-----------------------|--|
| <b>Brief</b>   | 4, 71-73    | § I (pp.4-7)                             | 1-2        | pp. 1-10,<br>13-19    | pp. 12-13             | Sections II.B<br>(pp. 13-15),VI.A (pp. 32-33),<br>VI.B.2 (pp. 45-46) |
| <b>PFF/COL</b> | COL ¶¶ 1-14 | PFOF § I (¶¶ 1-9);<br>PCOL § I (¶¶ 1-13) | ¶¶ 211-15  | pp. 14-16,<br>170-171 | ¶¶ 8, 378,<br>555-560 | PFF ¶¶ 92-96, 258-67,<br>270; PCL ¶¶ 17-18                           |

B. Provide an interpretation of the hypothetical market that would exist in the absence of the Section 111 compulsory license. To what extent does the hypothetical market include or exclude all aspects of Section 111 or other statutory elements that currently apply to the distant signal market?

|                | <b>PTV</b>         | <b>JSC</b>                               | <b>SDC</b> | <b>CCG</b>            | <b>CTV</b> | <b>PS</b>                   |
|----------------|--------------------|--|------------|-----------------------|------------|-----------------------------|
| <b>Brief</b>   | 73-78              | § I (pp.4-7)                             | 3-7        | pp. 1-10,<br>19-23    | pp. 12-14  | Section III<br>(pp. 13-16)  |
| <b>PFF/COL</b> | COL ¶¶ 1-11, 15-28 | PFOF § I (¶¶ 1-9);<br>PCOL § I (¶¶ 1-13) | ¶¶ 216-25  | pp. 16-19,<br>171-172 | ¶¶ 542-554 | PFF ¶¶ 91-109; PCL ¶¶ 19-22 |

II. Changed circumstances and unchanged circumstances. What are the relevant changed circumstances before and during the 2014-2017 time period as they relate to valuation of the claimant categories at issue in this proceeding?

|                | <b>PTV</b>  | <b>JSC</b>            | <b>SDC</b> | <b>CCG</b>               | <b>CTV</b>   | <b>PS</b>                                     |
|----------------|-------------|-----------------------|------------|--------------------------|--|---|
| <b>Brief</b>   | 1-2, 4-24   | § II (pp.7-19)        | 7-18       | pp. 23-35                | pp. 14-19, 25-32, 42-45                            | Section I.B (pp. 3-4), Section IV (pp. 17-31) |
| <b>PFF/COL</b> | PFF ¶¶ 1-21 | PFOF § II (¶¶ 10-121) | ¶¶ 226-45  | pp. 1-14, 19-37, 173-179 | ¶¶ 46, 64-104, 294, 297, 301-302, 570-573, 601-603 | PFF ¶¶ 110-257; PCL ¶¶ 23-24, 27              |

III. Fee-based or rate-based regression models

A. Can a fee-based regression model reveal relative market value in the context of this proceeding?

|                | <b>PTV</b>                        | <b>JSC</b>              | <b>SDC</b> | <b>CCG</b>                | <b>CTV</b>                     | <b>PS</b>                   |
|----------------|-----------------------------------|-------------------------|------------|---------------------------|--------------------------------|-----------------------------|
| <b>Brief</b>   | 2-3, 24-31, 79-81                 | § III (pp.19-43)        | 18-35      | pp. 1-10, 35-40, 71-76    | pp. 20-32, 40-45, 53-54, 55-56 | Section V (pp. 31-32)       |
| <b>PFF/COL</b> | PFF ¶¶ 22-106<br><br>COL ¶¶ 35-38 | PFOF § III (¶¶ 122-222) | ¶¶ 7-66    | pp. 37-45, 72-85, 179-185 | ¶¶ 92-227, 287-377             | PFF ¶¶ 258-67; PCL ¶¶ 28-30 |

B. Does Dr. Johnson’s model, offered by PTV, reveal relative market value?

|                | <b>PTV</b>      | <b>JSC</b>   | <b>SDC</b> | <b>CCG</b>         | <b>CTV</b>                    | <b>PS</b>                 |
|----------------|-----------------|--|------------|--------------------|-------------------------------|---------------------------|
| <b>Brief</b>   | 2, 31-32, 34-38 | § III.A-C (pp.20-43)                               | 35-55      | pp. 40-42          | pp. 42-48                     | Section VII.B (pp. 54-56) |
| <b>PFF/COL</b> | PFF ¶¶ 107-50   | PFOF §§ III.B-I (¶¶ 127-206), III.K-L (¶¶ 216-222) | ¶¶ 67-120  | pp. 66-69, 187-189 | ¶¶ 287-328, 359-362, 377, 602 | PFF ¶¶ 367-83             |

C. Does Dr. George’s model, offered by CCG, reveal relative market value?

|                | <b>PTV</b>    | <b>JSC</b>  | <b>SDC</b>       | <b>CCG</b>         | <b>CTV</b>                             | <b>PS</b>                 |
|----------------|---------------|---|------------------|--------------------|--|---------------------------|
| <b>Brief</b>   | 2, 32         | §§ III.A (pp.20-24), III.B.1-9 (pp.24-42), III.C (pp.42-43) | 35-47, 55-58     | pp. 43-47          | pp. 42-45, 48-50                       | Section VII.A (pp. 52-53) |
| <b>PFF/COL</b> | PFF ¶¶ 151–59 | PFOF §§ III.A-I (¶¶ 122-206), III.K (¶¶ 216-218)            | ¶¶ 67-96, 121-27 | pp. 45-66, 185-187 | ¶¶ 287-303, 329-342, 359-361, 377, 602 | PFF ¶¶ 351-66             |

D. Does Dr. Tyler’s model, offered by Program Suppliers, reveal relative market value?

|                | <b>PTV</b>    | <b>JSC</b>   | <b>SDC</b> | <b>CCG</b>         | <b>CTV</b>                         | <b>PS</b>              |
|----------------|---------------|--|------------|--------------------|------------------------------------|------------------------|
| <b>Brief</b>   | 2, 33         | §§ III.B.1-4 (pp.24-35), III.B.7-8 (pp.38-41), III.B.10 (p.42), III.C (pp.42-43) | 60-64      | pp. 47-49          | pp. 42-45, 50-53                   | Section VI (pp. 32-51) |
| <b>PFF/COL</b> | PFF ¶¶ 159–60 | PFOF §§ III.C-F (¶¶ 147-190), III.I-J (¶¶ 206-215), III.L (¶¶ 219-222)           | ¶¶ 134-42  | pp. 69-71, 189-190 | ¶¶ 287-303, 343-359, 361, 377, 602 | PFF ¶¶ 268-350         |

E. Does Dr. Marx’s model, offered by CTV, reveal relative market value?

|                | <b>PTV</b>    | <b>JSC</b> | <b>SDC</b>       | <b>CCG</b>         | <b>CTV</b>           | <b>PS</b>                 |
|----------------|---------------|------------|------------------|--------------------|----------------------|---------------------------|
| <b>Brief</b>   | 33–34         | N/A        | 35-47, 58-60     | p. 49              | pp. 25-27, 30-32     | Section VII.C (pp. 56-57) |
| <b>PFF/COL</b> | PFF ¶¶ 161–65 | N/A        | ¶¶ 67-96, 128-33 | pp. 71-72, 190-191 | ¶¶ 195-227, 603, 605 | PFF ¶¶ 384-88             |

IV. Constant sum survey method

A. Can a constant sum survey method reveal relative market value in the context of this proceeding?

|                | <b>PTV</b>   | <b>JSC</b>   | <b>SDC</b> | <b>CCG</b>             | <b>CTV</b>          | <b>PS</b>                    |
|----------------|--------------|--|------------|------------------------|---------------------|------------------------------|
| <b>Brief</b>   | 2-3, 81-82   | § IV (pp.43-46)                                    | 64-66      | pp. 1-10, 50-60, 66-71 | pp. 54-79           | Section VIII (pp. 57-77)     |
| <b>PFF/COL</b> | COL ¶¶ 39-41 | PFOF § IV (¶¶ 223-253); PCOL §§ II, III (¶¶ 14-19) | ¶¶ 143-50  | pp. 85-169, 191-199    | ¶¶ 378-541, 604-605 | PFF ¶¶ 391-566; PCL ¶¶ 31-33 |

B. Does the Bortz survey, offered by JSC, reveal relative market value?

|                | <b>PTV</b>     | <b>JSC</b>  | <b>SDC</b> | <b>CCG</b>          | <b>CTV</b>          | <b>PS</b>                    |
|----------------|----------------|---|------------|---------------------|---------------------|------------------------------|
| <b>Brief</b>   | 38-71          | § V (pp.46-71)                                    | 66-84      | pp. 51-60           | pp. 54-79           | Section VIII (pp. 57-77)     |
| <b>PFF/COL</b> | PFF ¶¶ 166-372 | PFOF § V (¶¶ 254-426); PCOL §§ III, IV (¶¶ 19-22) | ¶¶ 151-210 | pp. 85-169, 191-199 | ¶¶ 378-541, 604-605 | PFF ¶¶ 391-566; PCL ¶¶ 31-33 |

V. Additional evidence regarding the valuation of the claimant categories. In addition to the regression models and the Bortz survey, what market or industry-based evidence in the record can be relied upon to assess or determine the relative valuation of programming in each of the claimant categories during the 2014-17 time period?

|                | <b>PTV</b>   | <b>JSC</b>             | <b>SDC</b>         | <b>CCG</b>                      | <b>CTV</b>                        | <b>PS</b>                                       |
|----------------|--|------------------------|--------------------|---------------------------------|-----------------------------------|---|
| <b>Brief</b>   | 3-24   | § VI (pp.71-82)        | 8-16, 73-74        | pp. 61-65                       | pp. 3-11, 19, 32-42, 56-64, 74-79 | Sections IV (pp. 17-31), Section IX (pp. 77-80) |
| <b>PFF/COL</b> | PFF ¶¶ 1-21, 105-06, 373-79<br><br>COL ¶¶ 31-32, 42-45 | PFOF § VI (¶¶ 427-521) | ¶¶ 170-74, 228-42, | pp. 1-14, 26-29, 83-84, 178-179 | ¶¶ 10-36, 42-63, 228-286          | PFF ¶¶ 68-90, 110-257                           |

VI. Royalty shares

A. Which methodology or methodologies best reveal relative market value?

|                | <b>PTV</b>             | <b>JSC</b>   | <b>SDC</b>         | <b>CCG</b>                  | <b>CTV</b>            | <b>PS</b>                                     |
|----------------|------------------------|--|--------------------|-----------------------------|-----------------------|---|
| <b>Brief</b>   | 24–37, 79–82           | §§ IV (pp.43-46), V (pp.46-71), VII.A (pp.82-83)                             | 64-85              | pp. 1-10, 66-76             | pp. 1-3, 54-57, 79-83 | Section VI (pp. 32-51), Section X (pp. 80-82) |
| <b>PFF/COL</b> | PFF ¶¶ 22–119, 166–372 | PFOF §§ V (¶¶ 254-426), VII.A-D (¶¶ 522-534); PCOL §§ II, III, IV (¶¶ 14-22) | ¶¶ 5, 143-210, 246 | pp. 65-66, 179-181, 199-200 | ¶¶ 92-227, 605        | PFF ¶¶ 268-350; PCL ¶¶ 23-30                  |

B. What adjustments (if any) should be applied to the resulting shares?

|                | <b>PTV</b>    | <b>JSC</b>                                   | <b>SDC</b> | <b>CCG</b>  | <b>CTV</b>      | <b>PS</b>                                  |
|----------------|---------------|--|------------|-------------|-----------------|--|
| <b>Brief</b>   | 42–43         | §§ V.C (pp.64-69), VII.B (pp.83-84)          | 82-84      | p. 76       | pp. 79-83       | Section VII.D.4 (p. 74), Section X (p. 82) |
| <b>PFF/COL</b> | PFF ¶¶ 204–13 | PFOF §§ V.D (¶¶ 389-414), VII.B (¶¶ 524-526) | ¶¶ 200-10  | pp. 199-200 | ¶¶ 228-286, 605 | PFF ¶¶ 500-01, 549, 602-03                 |

C. How and to what extent would or should application of this methodology or methodologies comport with or rely upon prior determinations of the Judges and their predecessors?

|                | <b>PTV</b>   | <b>JSC</b>   | <b>SDC</b> | <b>CCG</b>     | <b>CTV</b>                        | <b>PS</b>   |
|----------------|--------------|--|------------|----------------|-----------------------------------|---|
| <b>Brief</b>   | 78–79        | § V.A.1 (pp.46-48). <i>See also</i> §§ II.C.2 (pp.16-18), IV (pp.43-46)                        | 64-66      | pp. 76-77      | pp. 1-3, 54-56, 65-66             | Section I.B (p. 2), Section V (pp. 31-32), Section VI.A.4.h & I (pp. 42-43) |
| <b>PFF/COL</b> | COL ¶¶ 29–45 | PFOF §§ II.C.2 (¶¶ 101-115), IV (¶¶ 223-253), V.A (¶¶ 254-261); PCOL §§ II, III, IV (¶¶ 14-22) | ¶¶ 143-50  | pp. 45-52, 200 | ¶¶ 466-467, 489, 555-595, 601-603 | PFF ¶¶ 258-67, 317; PCL ¶¶ 23-30  |

D. How and to what extent would application of this methodology or methodologies address the changed circumstances or continuities before and during the 2014-2017 time period?

|                | <b>PTV</b>    | <b>JSC</b>  | <b>SDC</b> | <b>CCG</b> | <b>CTV</b>                                  | <b>PS</b>                    |
|----------------|---------------|---|------------|------------|---|------------------------------|
| <b>Brief</b>   | 24-30         | §§ V.D (pp.69-71), VII.A (pp.82-83). <i>See also</i> § II.C.2 (pp.16-18)                          | 66-73      | p. 77      | pp. 1-3, 14-32, 55-58, 74-80, 83            | Section VI (pp. 32-51)       |
| <b>PFF/COL</b> | PFF ¶¶ 25-106 | PFOF §§ II.C.2 (¶¶ 101-115), V.E (¶¶ 415-426), VII.C (¶¶ 527-530); PCOL §§ II, III, IV (¶¶ 14-22) | ¶¶ 151-69  | pp. 37-44  | ¶¶ 195-227, 238-248, 407-409, 472, ,601-603 | PFF ¶¶ 268-350; PCL ¶¶ 23-27 |

E. How and to what extent would application of this methodology or methodologies address the market or industry-based evidence in the record regarding the relative valuation of programming in the claimant categories during the 2014-17 time period?

|                | <b>PTV</b>    | <b>JSC</b>  | <b>SDC</b> | <b>CCG</b>         | <b>CTV</b>                       | <b>PS</b>              |
|----------------|---------------|---|------------|--------------------|----------------------------------|------------------------|
| <b>Brief</b>   | 24-30         | §§ V.D (pp.69-71), VII.A (pp.82-83)   | 66-74      | pp. 77-78          | pp. 1-3, 19, 54-64, 74-79, 83    | Section VI (pp. 32-51) |
| <b>PFF/COL</b> | PFF ¶¶ 25-106 | PFOF §§ II.C.2 (¶¶ 101-115), V.E (¶¶ 415-426), VII.D (¶¶ 531-534); PCOL §§ II, III, IV (¶¶ 14-22) | ¶¶ 151-74  | pp. 37-45, 179-182 | ¶¶ 7-63, 75-91, 514-534, 601-604 | Section VI (pp. 32-51) |

F. How and to what extent should this methodology apply to the 3.75% fund and/or Syndex fund?

|                | <b>PTV</b> | <b>JSC</b>                | <b>SDC</b> | <b>CCG</b>  | <b>CTV</b> | <b>PS</b>                    |
|----------------|------------|---------------------------|------------|-------------|------------|------------------------------|
| <b>Brief</b>   | 32         | § VII.B (pp.83-84)        | 85         | p. 78       | pp. 83-84  | Section X (pp. 80-82)        |
| <b>PFF/COL</b> | PFF ¶ 158  | PFOF § VII.E (¶¶ 535-536) | ¶ 247      | pp. 200-201 | ¶ 606      | PFF ¶¶ 598-603; PCL ¶¶ 36-38 |

G. What are the final proposed shares for each of the royalty funds at issue for the 2014-17 cable royalty years?

1. Basic fund

|                | <b>PTV</b> | <b>JSC</b>            | <b>SDC</b> | <b>CCG</b>  | <b>CTV</b> | <b>PS</b>                |
|----------------|------------|-----------------------|------------|-------------|------------|--------------------------|
| <b>Brief</b>   | 82-83      | § VII.B<br>(pp.83-84) | 85         | pp. 79-80   | pp. 79-84  | Section X<br>(pp. 80-82) |
| <b>PFF/COL</b> | COL ¶ 46   | PFOF § VII.F          | ¶ 246      | pp. 200-201 | ¶ 606      | PFF ¶¶ 598-603           |

2. 3.75% fund

|                | <b>PTV</b> | <b>JSC</b>           | <b>SDC</b> | <b>CCG</b>  | <b>CTV</b> | <b>PS</b>                |
|----------------|------------|----------------------|------------|-------------|------------|--------------------------|
| <b>Brief</b>   | 83         | §VII.B<br>(pp.83-84) | 85         | pp.79-80    | pp. 79-84  | Section X<br>(pp. 80-82) |
| <b>PFF/COL</b> | COL ¶ 47   | PFOF § VII.F         | ¶ 247      | pp. 200-201 | ¶ 606      | PFF ¶¶ 598-603           |

3. Syndex fund

|                | <b>PTV</b> | <b>JSC</b> | <b>SDC</b> | <b>CCG</b> | <b>CTV</b> | <b>PS</b>                |
|----------------|------------|------------|------------|------------|------------|--------------------------|
| <b>Brief</b>   | 83         | N/A        | N/A        | p. 80      | N/A        | Section X<br>(pp. 80-82) |
| <b>PFF/COL</b> | COL ¶ 47   | N/A        | N/A        | p. 201     | N/A        | PFF ¶¶ 598-603           |

Dated: May 17, 2023

Respectfully submitted,

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# Proof of Delivery

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