

MAY 23 1980 REC'D

ARNOLD & PORTER

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DAVID H. LLOYD

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May 23, 1980

Ms. Mary Lou Burg, Chairman
Copyright Royalty Tribunal
1111 20th Street, N.W.
Washington, D.C. 20036

Re: Cable Royalty Distribution Proceedings

Dear Ms. Burg:

The Tribunal's May 7, 1980 notice directs the parties to provide a list of any witnesses to be presented during the Phase I rebuttal hearings, as well as a "concise statement of the purpose of [their] testimony." This notice also requests the parties to advise the Tribunal as to whether they intend "to present testimony concerning the subject matter considered on May 22 and 23."

The Joint Sports Claimants expect to present the following witnesses (who will be present to testify on Wednesday, May 28, 1980) and exhibits during the Phase I rebuttal hearings:

1. Dr. Peter Lemieux. Dr. Lemieux will offer testimony in response to the claims of other parties as to the comparative value of their distant signal programming to cable operators. Dr. Lemieux will also sponsor a Nielsen study of the distant signal cable viewing of the programming on certain non-commercial educational stations. (Although not required to do so, the Joint Sports Claimants are providing a copy of the Nielsen Study to counsel for PBS this afternoon).

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2. Mr. Charles Dolan. Based upon his experience in the cable industry, Mr. Dolan will offer testimony in response to the claims of other parties as to the value of their distant signal programming to cable operators.
3. The Joint Sports Claimants will introduce the enclosed computer runs reviewed by Herschel Shostek, the consultant retained by the National Association of Broadcasters. These computer runs rebut certain statements made by NAB witnesses as to how the claimed share was calculated and relate also to the proper share of royalties which should be attributed to local broadcasters under the NAB's methodology.

During the hearings held May 22 and today, the NAB presented testimony ostensibly under the Tribunal's May 7, 1980 notice allowing evidence otherwise excluded by the December 15, 1979 rulings. The Joint Sports Claimants do not presently intend to present any evidence in rebuttal to the presentation made by NAB on May 22 and today.

We are, however, mindful of the statements made by members of the Tribunal during the session on May 22 that the entitlement to royalties from distant retransmission of sports programming, as between the sports clubs and the broadcasters, is a matter for Phase I. As the Tribunal is aware, we requested counsel for the NAB by letter delivered yesterday to identify each broadcaster he is authorized to represent which believes that it is entitled to the royalties attributed to those live professional sports telecasts claimed by the Joint Sports Claimants. (A copy of this letter is attached for the record).

Our understanding of the present status of this matter is that (1) the Tribunal expects that if NAB wishes

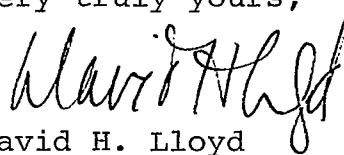
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to pursue further its contentions respecting ownership of copyright in sports programming, it is incumbent upon NAB to define the area of controversy by responding to our letter of yesterday and (2) at such time, if at all, that NAB should discharge this duty (assuming it does so in an expeditious fashion) the Tribunal will consider whether it will hear further evidence on this matter.

Accordingly, the description of the rebuttal testimony which is contained above may require an addendum to take account of any controversy over specific sports programming which NAB may identify and as to which it may profer evidence.

Very truly yours,



David H. Lloyd

Enclosure

cc: Counsel on attached List

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DAVID H. LLOYD

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May 22, 1980

Gordon T. King, Esquire
Coudert Brothers
Pan American Building
200 Park Avenue
New York, New York 10017

Dear Mr. King:

The Tribunal ruled this morning that the broadcaster-claimants' entitlement, if any, to the royalties attributable to live telecasts of professional sports events will be resolved in Phase I of the proceedings. The Tribunal also urged that the Joint Sports Claimants and the NAB identify the extent to which there are conflicting claims to these royalties.

As you know, each of the professional baseball, basketball, hockey and soccer clubs which we are authorized to represent has filed and prosecuted a claim for the royalties attributable to the telecasts of its games. The identities of these clubs are set forth in our joint claim filed with the Tribunal on July 31, 1979. In order to comply with the determinations of the Tribunal noted above, and to expedite any evidentiary presentation which must be made, we request that you immediately identify each broadcaster you are authorized to represent which claims that it is entitled to the royalties attributable to these same telecasts.

Sincerely,

David H. Lloyd

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May 27, 1980

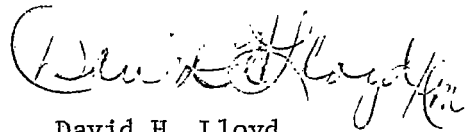
Ms. Mary Lou Burg, Chairman
Copyright Royalty Tribunal
1111 20th Street, N.W.
Washington, D.C. 20006

Re: Cable Royalty Distribution Proceedings

Dear Ms. Burg:

In my letter of May 23, 1980, I referred to an exhibit which consisted of computer runs reviewed by Dr. Herschel Shosteck. These computer runs were served upon counsel. However, they were inadvertently omitted from the filing with the Tribunal and are, accordingly, enclosed herewith.

Very truly yours,



David H. Lloyd

Enclosure