

JAN 31 1980 REC'D

Before The
COPYRIGHT ROYALTY TRIBUNAL
Washington, D.C. 20036

In the Matter of)
Distribution of)
Cable Royalty Fees)

PREHEARING MEMORANDUM

TCI Programs, Inc., a claimant for cable royalty fees in the cable royalty distribution proceeding, by its attorneys, hereby submits its Pre-hearing Memorandum as directed by the Tribunal in its December 15, 1979 Order, published in the Federal Register on December 19, 1979.

TCI Programs, Inc. is aware of the extensive study already undertaken by the Motion Picture Association of America (MPAA), and upon which TCI Programs, Inc. expects MPAA to rely in order to establish the amounts to which the motion picture interests and syndicated programming interests should be entitled. TCI Programs, Inc. feels that the methodology employed by MPAA in its study is realistic and is reasonably designed to lead to a fair division of the cable royalty fees.

Studies of all major groups of claimants similar to that developed by MPAA should be submitted at a reason-

ably early date as constituting the direct cases upon which the claimants intend to rely. At the same time, the parties may identify particular witnesses they would intend to present, along with a brief synopsis of their testimony. TCI Programs believes that, to the extent possible, the cases should be made in writing in order to avoid having an endless parade of witnesses, testifying to nothing more than could have been submitted in affidavit form. Within a reasonably short period thereafter, parties should notify one another, and the Tribunal, which witnesses, if any, are desired for cross-examination. Any cross-examination of witnesses should be limited to that which is reasonably calculated to assist the Tribunal in arriving at its ultimate decision, and not simply attempts to pick at minor or unimportant aspects of the parties' direct cases.

In short, the procedures adopted by the Tribunal should be such that the Tribunal is able to arrive at a reasonable and reasoned decision with as small a record as possible, consistent with that goal.

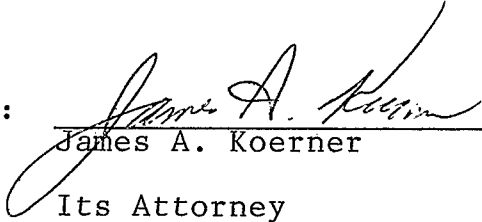
If the hearing is to be divided into phases, TCI Programs, Inc. would suggest that the first phase identify the amounts or percentages to which various categories of users, i.e., broadcasters, motion picture interests, syndicated programming interests, music rights organizations, etc., are entitled. The second phase, treating each category of claimants in turn, would determine how much each

claimant within the category is entitled to receive. At this phase, in particular, the parties should be encouraged to reach voluntary agreements to be presented to the Tribunal for approval. At the conclusion of the second phase, the Tribunal would be in a position to render its final decision and order of distribution.

Respectfully submitted,

TCI PROGRAMS, INC.

By:


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CERTIFICATE OF SERVICE

I, Elizabeth Ann Hall, a secretary in the law firm of Baraff, Koerner & Olender, P.C., do hereby certify that on this 31st day of January, 1980, copies of the foregoing document were sent, via United States mail, postage prepaid, to the following:

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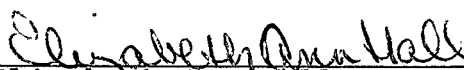
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January 31, 1980

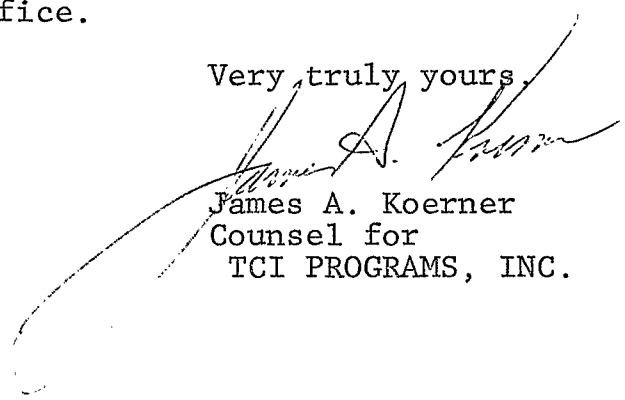
Chairman, Copyright
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1111 20th Street, N.W.
Room #450
Washington, D.C. 20036

Dear Madam Chairman:

On behalf of TCI Programs, Inc., a claimant in the proceeding concerning the distribution of cable royalty fees, there are transmitted herewith an Original and nine (9) copies of its Pre-hearing Memorandum, filed in response to the direction of the Copyright Royalty Tribunal by Order dated December 15, 1979, and published in the Federal Register on December 19, 1979.

Should additional information be necessary in connection with this matter, please communicate directly with this office.

Very truly yours,



James A. Koerner
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TCI PROGRAMS, INC.