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BEFORE THE
COPYRIGHT ROYALTY TRIBUNAL
WASHINGTON, D.C.

ORIGINAL

In the matter of

Cable Royalty
Distribution Proceedings

CRT Docket No. 79-1

RESPONSE OF THE NCAA
TO THE CANADIAN BROADCASTING CORPORATION
OFFER OF PROOF

Pursuant to the Tribunal's directive issued at the hearing on August 20, 1980, we take this opportunity to respond on behalf of the National Collegiate Athletic Association to the written offer of proof dated August 25, 1980 submitted by the Canadian Broadcasting Corporation ("CBC").

The CBC's statement demonstrates that the matters addressed by the testimony which it proposed to introduce were not within the purview of the Phase II hearings. The CBC acknowledges that the testimony and documents that it proposed to present were to be responsive to the Tribunal's ruling that in Phase II it would consider evidence with respect to "contractual arrangements [which] specifically provide that such royalties [for the secondary transmission of certain sporting events] shall be distributed to broadcaster claimants." 45 Fed. Reg. 50622 (1980). The CBC offer, however, claims only that the testimony and documents concerned "would have shown:

- a) CBC is the producer and copyright owner of a large amount of sports programming.
- b) The CBC sports programs were primarily transmitted by a number of Canadian transmitters.
- c) The CBC sports programs were secondarily transmitted by U.S. cable systems."

None of the listed matters is responsive to the Tribunal's ruling, and all relate to Phase I issues previously resolved by the Tribunal. Accordingly, the offer of proof confirms that they were properly excluded.

Moreover, even if the testimony and documents proffered by the CBC were admitted and showed precisely what the CBC claims, that evidence would not entitle the CBC to any royalties in addition to those which it negotiated with other broadcasting and syndicated programming interests. The proffered evidence relates solely to hours of carriage -- held by the Tribunal to be only a secondary consideration in determining royalty fee distributions -- and addresses none of the primary factors specified by the Tribunal. It accords no basis for a distribution to the CBC from the 12 percent allocation made to the Joint Sports Claimants and NCAA. Indeed, the offer of proof does not even assert that the testimony and documents proffered would have established CBC's right to any particular part of that allocation.

In the circumstances, the CBC's offer of proof merely confirms that the Tribunal's exclusion of the material concerned was correct in the first instance, and that had it been admitted it would have provided no basis for a distribution, and thus could have not altered the final distribution which the Tribunal will announce at the conclusion of these proceedings.

Respectfully submitted,



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August 27, 1980

CERTIFICATE OF SERVICE

I hereby certify that, on this 27th day of August, 1980, copies of the foregoing Response were served upon parties to this proceeding by first class mail, postage prepaid, addressed to each of the following:

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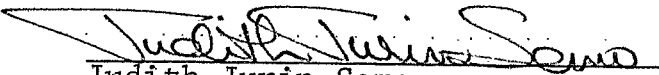
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