

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC**

In the Matter of

**Distribution of the
2011 Cable Royalty Funds**

Docket No. 2012-9 CRB CD 2011

**COMMENTS OF PROGRAM SUPPLIERS
ON THE EXISTENCE OF A CONTROVERSY**

The Motion Picture Association of America, Inc. (“MPAA”), on behalf of its represented member companies and other MPAA-represented producers and distributors of syndicated series, including non-team sports, movies, and specials broadcast by television stations whose signals are carried as distant signals by cable systems (“Program Suppliers”), hereby submits its comments in response to the request for comments published by the Copyright Royalty Judges (“Judges”) on January 18, 2013. *See Distribution of the 2011 Cable Royalty Funds*, 78 Fed. Reg. 4169 (January 18, 2013) (“*Notice*”). The *Notice* requests comments regarding: (1) whether there are any reasonable objections to Phase I Parties’ Motion for Partial Distribution, (“*Motion*”), concerning the 2011 cable royalty fund (“2011 Cable Fund”), and (2) the existence of outstanding Phase I and Phase II controversies for the 2011 Cable Fund.

Program Suppliers address the first issue jointly, with the other Phase I Parties, in separately-filed comments supporting the *Motion*. *See Comments of the Phase I Parties* (filed on February 19, 2013) (“*Joint Comments*”). As the Phase I Parties note in the *Motion* and in their *Joint Comments*, sound policy considerations favor early partial distribution of royalties. Because there is often a substantial delay between the time that royalties are collected and the conclusion

of distribution proceedings, both Congress and the Copyright Office (“Office”) have recognized the importance of distributing the maximum amount of copyright royalties to copyright owners at the earliest possible date. *See* Motion at 3-4. These same policy considerations favor an initial distribution of the 2011 Cable Fund at this time, and should be given considerable weight by the Judges in addressing the Motion.

Program Suppliers address the second issue identified in the *Notice* below.

I. Controversies With Respect to the 2011 Cable Fund

A. Phase I Controversies

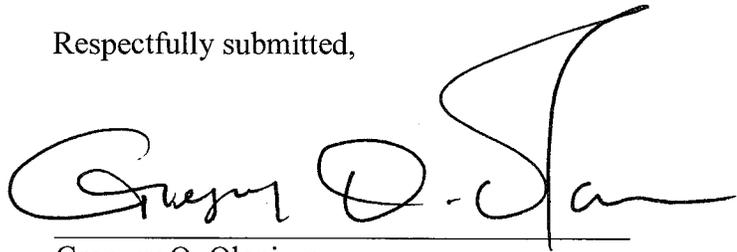
As discussed in the Joint Comments, a controversy currently exists among the Phase I Parties as to the 2011 Cable Fund. Program Suppliers anticipate that a hearing will be necessary to resolve Phase I controversies as to the 2011 Cable Fund. On January 18, 2013, the Phase I Parties filed a motion seeking to initiate a consolidated Phase I Proceeding as to the 2010 cable royalty funds and the 2011 Cable Fund. *See* Motion to Initiate Phase I Proceeding For The Distribution Of The 2010 And 2011 Cable Funds, Docket Nos. 2012-4 CRB CD 2010 and 2012-9 CRB CD 2011 at 2-3 (filed January 18, 2013). This Motion has not been opposed by any party, and should be granted by the Judges.

B. Phase II Controversies

MPAA-represented Program Suppliers have claims to royalties awarded for movies, syndicated programming, and special programs, including non-team sports programming, as to the 2011 Cable Fund. To the extent a claimant not represented by MPAA makes a claim that could impact the claims of the MPAA-represented Program Suppliers in the course of these comments, a Phase II controversy would exist against the MPAA-represented Program Suppliers. With respect to the 2011 Cable Fund, the MPAA-represented Program Suppliers are aware of Phase II controversies in the Program Suppliers category between the MPAA-represented

Program Suppliers and those Program Suppliers represented by the National Association of Broadcasters (“NAB”) and Independent Producers Group (“IPG”). MPAA has not reached a Phase II settlement with either NAB or IPG as to the 2011 Cable Fund, and it anticipates that a hearing will be necessary to resolve those controversies. MPAA-represented Program Suppliers estimate that a Phase II reserve amount of \$500,000 is more than adequate to satisfy both NAB and IPG’s Phase II claims in the Program Suppliers category. If Phase II hearings are held, MPAA intends to participate fully in those hearings. MPAA will represent the producers and/or distributors of syndicated series, including non-team sports, movies, and specials who have agreed to representation by MPAA.

Respectfully submitted,



Gregory O. Olaniran
D.C. Bar No. 455784
Lucy Holmes Plovnick
D.C. Bar No. 488752
MITCHELL SILBERBERG & KNUPP LLP
1818 N Street NW, 8th Floor
Washington, D.C. 20036
Telephone: (202) 355-7917
Facsimile: (202) 355-7887
goo@msk.com
lhp@msk.com

Dated: February 19, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of February, 2013, a copy of the foregoing Comments of Program Suppliers on the Existence of Controversies was sent by Federal Express to the individuals listed below:

Lucy Holmes Plovnick

Lucy Holmes Plovnick

JOINT SPORTS CLAIMANTS

Robert Alan Garrett
Stephen K. Marsh
James R. Wood
ARNOLD & PORTER LLP
555 Twelfth Street, NW
Washington, DC 20004-1206

INDEPENDENT PRODUCERS GROUP

Brian D. Boydston
PICK & BOYDSTON LLP
10786 Le Conte Ave.
Los Angeles, CA 90024

PUBLIC TELEVISION CLAIMANTS

COMMERCIAL TELEVISION CLAIMANTS

PUBLIC BROADCASTING SERVICE

**NATIONAL ASSOCIATION OF
BROADCASTERS**

Ronald G. Dove, Jr.
Lindsey Tonsager
COVINGTON & BURLING LLP
1201 Pennsylvania Ave., NW
Washington, DC 20004-2401

John I. Stewart, Jr.
Jennifer H. Burdman
Ann Mace
CROWELL & MORING LLP
1001 Pennsylvania Ave., NW
Washington, DC 20004-2595

MUSIC CLAIMANTS

AMERICAN SOCIETY OF COMPOSERS, BROADCAST MUSIC, INC. AUTHORS AND PUBLISHERS

Joan M. McGivern
Samuel Mosenkis
ASCAP
One Lincoln Plaza
New York, NY 10023

Joseph J. DiMona
BROADCAST MUSIC, INC.
7 World Trade Center
250 Greenwich Street
New York, NY 10007-0030

Michael J. Remington
Jeffrey J. Lopez
Philip J. Cardinale
DRINKER BIDDLE & REATH LLP
1500 K Street, NW – Suite 1100
Washington, DC 20005

SESAC, INC.

John C. Beiter
SHACKELFORD, ZUMWALT & HAYES
1014 16th Avenue South
Nashville, TN 37212

NATIONAL PUBLIC RADIO

Joyce Slocum
Gregory A. Lewis
NATIONAL PUBLIC RADIO
635 Massachusetts Avenue, NW
Washington, DC 20001-3753

CANADIAN CLAIMANTS

L. Kendall Satterfield
FINKELSTEIN THOMPSON LLP
James Place
1077 30th Street NW, Suite 150
Washington, DC 20007

DEVOTIONAL CLAIMANTS

Clifford M. Harrington
PILLSBURY WINTHROP SHAW
PITTMAN LLP
2300 N Street, NW
Washington, DC 20037

Arnold P. Lutzker
Allison L. Rapp
Jeannette M. Carmadella
LUTZKER & LUTZKER LLP
1233 20th Street, NW, Suite 703
Washington, DC 20036

Edward S. Hammerman
HAMMERMAN, PLLC
5335 Wisconsin Avenue, NW
Suite 440
Washington, DC 20015-2052

W. Thad Adams III
SHUMAKER, LOOP, & KENDRICK LLP
First Citizens Bank Plaza
128 South Tryon Street
Suite 1800
Charlotte, NC 28202-5013

Wendell R. Bird, P.C.
Jonathan T. McCants
BIRD, LOECHL, BRITTAIN & McCANTS,
LLC
1150 Monarch Plaza
3414 Peachtree Road, N.E.
Atlanta, GA 30326

Gregory H. Guillot
GREGORY H. GUILLOT, P.C.
13455 Noel Road, Suite 1000
Dallas, TX 75240