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## **LIBRARY OF CONGRESS**

### **Copyright Royalty Board**

**[Consolidated Docket No. 14-CRB-0011-SD (2010-13)]**

#### **Distribution of 2010-13 Satellite Royalty Funds**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Notice requesting comments.

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**SUMMARY:** The Copyright Royalty Judges announce settlement of controversies and a request for partial distribution of satellite television retransmission royalties claimed by Music Claimants. Music Claimants include Broadcast Music, Inc. (BMI) and the American Society of Composers, Authors, and Publishers (ASCAP), as well as SESAC, Inc.

**DATES:** Comments are due on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

**ADDRESSES:** Submit electronic comments via email to [crb@loc.gov](mailto:crb@loc.gov). Those who choose not to submit comments electronically should see “How to Submit Comments” in the Supplementary Information section below for physical addresses and further instructions. This notice and request is also posted on the agency’s website ([www.loc.gov/crb](http://www.loc.gov/crb)) and on [Regulations.gov](http://Regulations.gov) ([www.regulations.gov](http://www.regulations.gov)).

**FOR FURTHER INFORMATION CONTACT:** Kimberly Whittle, Attorney-Advisor, by telephone at (202) 707-7658 or e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** Each year satellite systems must submit royalty payments to the Register of Copyrights as required by the statutory license set forth in section 119 of the Copyright Act for the retransmission to satellite subscribers of over-the-air television

and radio broadcast signals. *See* 17 U.S.C. 119(b). The Copyright Royalty Judges (Judges) oversee distribution of royalties to copyright owners whose works were included in a qualifying retransmission and who filed a timely claim for royalties. Allocation of the royalties collected occurs in one of two ways. In the first instance, the Judges may authorize distribution in accordance with a negotiated settlement among all claiming parties. 17 U.S.C. 111(d)(4)(A). If all claimants do not reach agreement with respect to the royalties, the Judges must conduct a proceeding to determine the distribution of any royalties that remain in controversy. 17 U.S.C. 111(d)(4)(B). Alternatively, the Judges may, on motion of claimants and on notice to all interested parties, authorize a partial distribution of royalties, reserving on deposit sufficient funds to resolve identified disputes. 17 U.S.C. 111(d)(4)(C), 801(b)(3)(C).

On December 15, 2016, the Judges received a motion (Joint Motion) seeking distribution by stipulation to the Music Claimants from the satellite royalty funds deposited for royalty years 2010 through 2013, inclusive (the Funds). All participants<sup>1</sup> in this consolidated proceeding (Moving Parties) endorsed the Joint Motion. In the Joint Motion, the Moving Parties notified the Judges that they stipulate and agree that Music Claimants shall receive a share of each of the 2010-13 Funds as follows (the Music Claimants' Share):

<b>Year</b>	<b>Percentage</b>
2010	3.50%
2011	3.50%
2012	3.50%
2013	3.50%

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<sup>1</sup> Participants are: Motion Picture Association of America, Joint Sports Claimants, National Association of Broadcasters and the Commercial Television Claimants, Music Claimants, Canadian Claimants Group, Settling Devotional Claimants, National Public Radio, Public Broadcasting Service and the Public Television Claimants, and Multigroup Claimants.

The Moving Parties stipulate that the value of the Music Claimants' Share is as listed above, minus the dollar value of partial distributions of the 2010-13 Funds that Music Claimants have received to date.<sup>2</sup>

The Moving Parties represent that there are no outstanding inter- or intra-category controversies regarding the claims in the Music Claimant category. The Parties further stipulate and agree that these sums shall not be subject to repayment once distributed, that Music Claimants need not participate further in royalty distribution proceedings related to the 2010-13 Funds, and that no additional sums shall be distributed to Music Claimants in the future with respect to the 2010-13 Funds, provided that Music Claimants shall be entitled to receive the Music Claimants' Share of any additional royalties deposited into any of the 2010-13 Funds due to any audit of any cable system operator's Statement of Account pursuant to 37 C.F.R. § 201.16 that Music Claimants joined as participating copyright owners.

The Moving Parties' further stipulate that the terms described in the Joint Motion represent a compromise and settlement and apply to the 2010, 2011, 2012, and 2013 Cable Royalty Distribution Proceedings only; no party accepts the requested allocation as precedent and no party admits to any principle underlying the Music Claimants' Share.

The Moving Parties therefore request that the Judges order a partial distribution of royalties to Music Claimants in the agreed amounts pursuant to section 801(b)(3)(C) of the

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<sup>2</sup> The amounts Music Claimants have received in partial distribution from each year's portion of the 2010-13 Funds were calculated pursuant to confidential settlement agreements among the parties and were received from monies distributed by the Office of the Commissioner of Baseball as Common Agent for the parties. The amount of these partial distributions constitutes Restricted information pursuant to the Protective Order in this proceeding; the amounts are redacted from the public version of the Joint Motion and are disclosed only to the parties in accordance with the terms of the settlement agreements.

Copyright Act.<sup>3</sup> 17 U.S.C. 801(b)(3)(C). That section requires that, before ruling on the motion, the Judges publish a notice in the **Federal Register** seeking responses to the motion for partial distribution to ascertain whether any claimant entitled to receive the subject royalties has a reasonable objection to the requested distribution. Accordingly, this Notice seeks comments from interested claimants on whether any reasonable objection exists that would preclude the distributions to Music Claimants described in this Notice. Parties making objection to the partial distribution must advise the Judges of the existence and details of all objections by the end of the comment period. The Judges will not consider any objections with respect to the partial distribution motion that come to their attention after the close of the comment period.

The Judges have caused the joint motion (redacted public version) to be posted on the Copyright Royalty Board web site at <http://www.loc.gov/crb>.

### **How to Submit Comments**

Interested members of the public must submit comments to only **one** of the following addresses. If not commenting by email or online, commenters must submit an original of their comments, five paper copies, and an electronic version on a CD.

**Email:** [crb@loc.gov](mailto:crb@loc.gov); or

**Online:** [www.regulations.gov](http://www.regulations.gov); or

**U.S. mail:** Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

**Overnight service (only USPS Express Mail is acceptable):** Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

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<sup>3</sup> The requested distributions represent partial distributions of the 2010-13 Funds, but constitute final distributions to the Music Claimants, *except* that Music claimants may share in the same proportion in the event a future audit results in additional deposits into any fund at issue in this proceeding.

**Commercial courier:** Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue SE, Washington, DC 20559-6000. Deliver to: Congressional Courier Acceptance Site, 2<sup>nd</sup> Street NE and D Street NE, Washington, DC; or

**Hand delivery:** Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue SE, Washington, DC 20559-6000.

Dated: January 17, 2017.

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Suzanne M. Barnett  
Chief U.S. Copyright Royalty Judge

**[BILLING CODE: 1410-72-P]**

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