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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 350

[Docket No. 17-CRB-0013 RM]

Proceedings of the Copyright Royalty Board; violation of standards of conduct

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed Rule.

SUMMARY: The Copyright Royalty Judges seek reply comments regarding a proposed new Copyright Royalty Board rule that would authorize the Judges to bar, either temporarily or permanently, certain individuals and entities from participating in proceedings before the Judges.

DATES: Comments are due no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The proposed rule is posted on the agency's website (www.loc.gov/crb) and at Regulations.gov (www.regulations.gov). Interested parties may submit comments via the Copyright Royalty Board's electronic filing system, eCRB, at <https://app.crb.gov>. Commenters must register to use the system prior to filing comments. Those who choose not to submit comments electronically should see How to Submit Comments in the Supplementary Information section below for online and physical addresses and further instructions.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, Program Specialist, at (202) 707-7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION:

On April 20, 2017, the Copyright Royalty Judges (Judges) published a notice in the Federal Register seeking comments on a proposed rule that would authorize the Judges to bar, either temporarily or permanently, certain individuals and entities from participating in proceedings before the Judges.¹ In response to the notice, the Judges received five comments, including two joint comments, from people and entities that regularly participate in proceedings before the Judges.² The comments and the proposal are available on the CRB web site and in eCRB.

While some of the comments were supportive of the proposal or certain aspects of it, others were critical and raised a number of issues with the proposal, including the scope of the proposal, potential abuses of the proposed provisions, the Constitutionality of some of the proposed provisions, and whether the proposal is even necessary. The Judges seek reply comments responding directly to issues that commenters raised regarding the proposal. While the Judges will review and consider all comments they receive on the proposal, they request that commenters limit their comments at this point to issues that other commenters raised in the initial round of comments, including ways to address criticisms that some commenters raised with respect to the proposal. Some commenters that criticized the proposal suggested alternative language that might remedy perceived shortfalls in the Judges' proposal. The Judges request comments on those proposals, or welcome alternative suggestions the Judges might adopt to

¹ 82 FR 18601.

² The Judges received a joint comment from a group referring to itself as "The Allocation Phase Parties," which are Program Suppliers, Joint Sports Claimants, Commercial Television Claimants, Public Broadcasting Service, Settling Devotional Claimants, Canadian Claimants Group, and National Public Radio. The Judges also received a joint comment from a group referring to itself as Music Community Participants, which are SoundExchange, Inc., the Recording Industry Association of America, Inc., the American Association of Independent Music, the American Federation of Musicians of the United States and Canada, the Screen Actors Guild – American Federation of Television and Radio Artists, the Alliance of Artists and Recording Companies, Inc., and the National Music Publishers' Association. The Judges also received comments from Raul Galaz and from Worldwide Subsidy Group, LLC, dba Independent Producers Group. The Judges also received a comment from David Powell.

address those perceived shortfalls, including the pros and cons of choosing any proposed alternative approach. In light of some of the negative comments, the Judges also seek comment on whether, on balance, the remedies currently available to the Judges for addressing ethical lapses of participants and counsel are adequate or preferable to the remedial rule the Judges proposed. In particular, the Judges seek detailed comments regarding the incidents to which the Judges referred in the notice proposing the provision (or others that commenters are aware of to which the Judges did not refer) and how remedies currently available were used to address those incidents and whether or not the extant remedies (*e.g.*, discovery sanctions or loss of the presumption of validity regarding claims) adequately addressed those incidents or whether gaps in the current remedial framework might lead to future incidents that could compromise public confidence in the CRB ratemaking and royalty distribution system.

Solicitation of Comments

The Judges seek reply comments on the proposed new rule that respond to comments that the Judges received in response to the initial notice of proposed rulemaking.

How to Submit Comments

Interested members of the public must submit comments to only one of the following addresses. If not submitting online, commenters must submit an original of their comments, five paper copies, and an electronic version in searchable PDF format on a CD.

Online: <https://app.crb.gov> or <http://www.regulations.gov>; or

U.S. mail: Copyright Royalty Board, PO 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

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, 2nd 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: June 21, 2017.

Suzanne M. Barnett
Chief Copyright Royalty Judge

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