

Before the
COPYRIGHT OFFICE
LIBRARY OF CONGRESS
Washington, D.C.

DOCKET NO
RM 2007 1
COMMENT NO. 8

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In the Matter of)
Section 109 Report to Congress)
Notice of Inquiry)
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)
_____)

Docket No. 2007-1

COMMENTS OF DEVOTIONAL CLAIMANTS

On behalf of the Devotional Claimants,¹ we hereby submit these comments in connection with Notice of Inquiry (“NOI”) issued by the Copyright Office (“Office”) and published in the Federal Register on April 16, 2007. *See Section 109 Report to Congress, Notice of Inquiry*, 72 Fed. Reg. 19039 (April 16, 2007).

I. Introduction

Since the inception of the cable and satellite compulsory licenses, Devotional Claimants have participated actively in the administrative proceedings designed to identify and compensate the copyright owners and distributors of programs carried on cable television and via satellite. Devotional Claimants produce and distribute a wide variety of programming with religious and family value themes to audiences throughout the United States. Our programming fare consists of a diverse collection of religious services, inspirational sermons, as well as musical performances, news, talk, public affairs and children’s programs. Devotional Claimants produce shows for audiences of all ages. The ever-growing need of Americans to relate their faith to the meaning of public events and everyday life has established the programs of Devotional Claimants as an enduring fixture on television stations throughout the United States.

¹ The Devotional Claimants and Representative Programs they produce and distribute are set forth in Exhibit 1.

II. Importance of the Compulsory Licensing Systems

Common to all Devotional Claimants is the strategy for using the medium of television as the primary means to disseminate program offerings that bring a higher purpose and meaning to the lives of our audiences. In executing this strategy, the compulsory licenses for cable and satellite have been essential to ensure the broad reach and impact of the programs. Since Devotional Claimants' programs are predominantly carried on local broadcast channels, the distant retransmission of those signals by cable and satellite expands public access to the ministries and their messages. Absent a compulsory license, the Devotional Claimants would have to individually negotiate licensing agreements covering numerous programs carried on hundreds of television stations which are retransmitted on thousands of cable systems – a practical impossibility. Devotional Claimants believe that without a robust compulsory licensing system for cable and satellite, many families would lack the opportunity to see religious programming. Therefore, maintenance of the copyright compulsory systems for cable and satellite is strongly endorsed by the Devotional Claimants.

III. Need for Fair Marketplace Value System of Compensation

Devotional Claimants, all who are IRC § 501(c)(3) public charities, rely on broad public financial support for continuation of their program offerings. Compulsory royalties paid by cable and satellite subscribers that are returned to Devotional Claimants aid in the fulfillment of their charitable missions. Thus, one of the guiding principles, which Devotionals Claimants share with other copyright owners, is the copyright law's licensing system should ensure that the fair marketplace value of programming is rewarded.

Currently, the law falls short of that goal, as the compulsory systems undervalue the program retransmitted. Compulsory license valuations for many of the highly rated programs,

such as movies and sporting events, are a small fraction of those paid by broadcast and cable networks. The Devotional Claimants will review the data offered during the Notice period and may offer additional commentary on this point in Reply Comments. However, the point to underscore is that if the present system continues failing to compensate copyright owners at a fair, marketplace rate, then calls for the repeal of the system by other copyright owners may grow. The system's repeal would disserve the broader public interest, because the transactional costs in securing individual licenses for each program retransmitted would overwhelm operators, large and small alike. One effect would be a reduction of diversity in programming available to American viewers, particularly among communities outside of the large network broadcast areas. The alternative would be to reduce or eliminate the very signals that are at the heart of the system, and whose retransmissions enable Devotional Claimants' programs, as well as other educational and family-oriented programs in particular, to reach a wide and interested audience.

A system of fair marketplace rates does not mean, however, that charges to subscribers of cable and satellite need be the same. The rationales behind the two compulsory licenses, the regulatory regimes governing them, and the economics of cable and satellite service require unique solutions. Therefore, while cable operators and satellite resale carriers compete, there is ample justification for maintaining different rate structures for cable and satellite retransmission services.

IV. Need for Reform

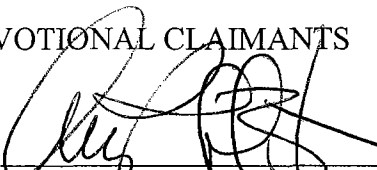
While maintenance of the compulsory systems is in the public interest, the processes of administration of the systems are in need of reform. Last year, Devotional Claimants joined with other copyright owners seeking to address digital signal developments and the Cable Statements of Account. These proceedings are overdue for action by the Copyright Office. See *Joint*


Comments of Copyright Owners filed separately in this proceeding. The Devotional Claimants join in those comments and herein underscore that they are ripe for action.

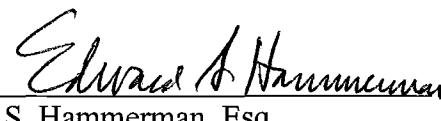
Furthermore, the time period between filing of royalties and conclusion of distribution proceedings is unduly long and protracted. There is no reasonable excuse for a system that collected royalties in Calendar 1998 and by Calendar 2007 still has not initiated, much less completed distribution proceedings. The Devotionals Claimants Phase II share for Calendar 1999 remains in limbo because no proceeding has been initiated. This delay is all the more unjust, because the cable and satellite royalties have funded the administrative costs of the Office and other compulsory systems. The copyright owners of programs retransmitted by cable and satellite deserve to have the long backlog of cases promptly addressed.


Respectfully submitted,

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EXHIBIT 1

Devotional Claimants and Representative Programs

Amazing Facts, Inc.
 Amazing Facts Ministry
American Religious Town Hall Meeting, Inc.
 American Religious Town Hall
Billy Graham Evangelistic Association
 Billy Graham
 Franklin Graham
Catholic Communications Corp.
 Chalice of Salvation
 Real to Reel
Christian Broadcasting Network
 700 Club
 Agua Viva
 Alabaster's Song
 Christian World News
 Flying House
 Spunkey's Series
 Storyteller's Café
 Superbook
Coral Ridge Ministries Media, Inc.
 Coral Ridge Hour
Cottonwood Christian Center
 Bayless Conley
Crenshaw Christian Center
 Frederick K.C. Price
Crystal Cathedral Ministries
 Hour of Power
 Rev. Robert Schuller
Evangelical Lutheran Church in America
 Davey & Goliath
 Mosaic
Faith for Today
 Lifestyle Magazine
Family Worship Center Church
 Jimmy Swaggart Telecast
In Touch Ministries
 In Touch
It Is Written
 It Is Written
Joyce Meyer Ministries
 Joyce Meyer
 Life in the Word

Liberty Broadcasting Network
Listen America
Jerry Falwell
Old Time Gospel Hour
Oral Roberts Evangelical Association
Miracles Now
Hour of Healing
Make Your Day Count
RBC Ministries
Day of Discovery
Reginald B. Cherry Ministries
The Doctor and the Word
Rhema Bible Church
Kenneth Hagin
Rhema Praise
Ron Phillips Ministries
Central Baptist Church
The Central Message
Speak the Word Church International
Exalted Word
The Potter's House of Dallas, Inc.
T.D. Jakes
The Potter's House
Zola Levitt Ministries, Inc.
Zola Levitt