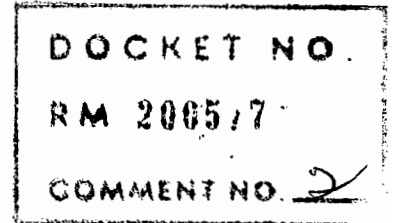


Before the
U.S. COPYRIGHT OFFICE
THE LIBRARY OF CONGRESS
Washington, D.C.



In the Matter of :
 :
 : Docket No. RM 2005-7
Satellite Home Viewer Extension and :
Reauthorization Act of 2004 :

**JOINT COMMENTS OF
BROADCAST MUSIC, INC. AND THE AMERICAN SOCIETY OF COMPOSERS,
AUTHORS, AND PUBLISHERS**

Broadcast Music, Inc. ("BMI") and the American Society of Composers, Authors, and Publishers ("ASCAP") hereby submit their comments in the above docket pursuant to the notice of inquiry issued by the U.S. Copyright Office ("Office") on June 30, 2005, 70 Fed. Reg. 39343-45 (July 7, 2005). The notice of inquiry is authorized by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"), Pub. L. No. 108-447, which requires the Office to conduct a two-pronged study, due by December 31, 2005, first on the unserved household limitation, and second on the general matter of harm to copyright owners.

ASCAP and BMI collectively represent hundreds of thousands of composer, songwriter and music publisher members and affiliates with combined repertoires of millions of copyrighted musical works. On behalf of their respective members and affiliates, ASCAP and BMI license the public performance rights granted to them by their

respective members and affiliates as copyright owners under section 106(4) of the Copyright Act. ASCAP and BMI are also each affiliated with about 70 foreign performing rights societies around the world and license the repertoires of those societies in the United States. On behalf of their members and affiliates, ASCAP and BMI annually file claims for cable compulsory license royalties under 17 U.S.C. §111, satellite carrier compulsory license royalties under 17 U.S.C. §119 and DART royalties pursuant to 17 U.S.C. §§ 1001 *et seq.* ASCAP and BMI each separately file joint claims covering their respective membership and affiliates.

Ever since enactment of the Satellite Home Viewer Act of 1988, Pub. L. No. 100-667, Title II, ASCAP and BMI have participated in the various proceedings that have arisen. ASCAP and BMI have no comment at this time in response to Part One of the notice of inquiry (which seeks comments concerning the “unserved household limitation” to the statutory satellite retransmission license).

With respect to Part Two of the notice of inquiry (requesting comments concerning the harm to copyright owners associated with satellite retransmissions under the Section 119 license), ASCAP and BMI submit that the effect of the Section 119 license is to make programming (including the music contained in such programming) available to satellite carriers at below market rates. The effect of this is to undercompensate all copyright owners, including ASCAP and BMI. The existence of this impact has been established in prior proceedings and has been acknowledged by the Copyright Office in its studies of the compulsory licenses over the years. *See, e.g.*, A Report of the Register of Copyrights, “A Review of the Copyright Licensing Regimes Covering Retransmission of Broadcast Signals” (U.S. Copyright Office, Aug. 1, 1997). ASCAP and BMI support the Joint Sports

Claimants to the extent that they demonstrate that rates are below marketplace. Any action taken by Congress to fund the Copyright Royalty Board from royalty funds will only exacerbate the problem. ASCAP and BMI reserve the right to reply to comments of other parties concerning Part Two of the notice of inquiry.

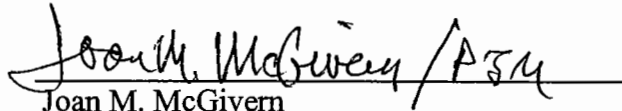
Respectfully submitted,

BROADCAST MUSIC, INC.


AMERICAN SOCIETY OF COMPOSERS,
AUTHORS, AND PUBLISHERS

 Marvin L. Berenson / BMI

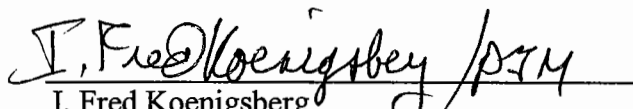
Marvin L. Berenson
Joseph J. DiMona
320 West 57th Street
New York, New York 10019-3705
Telephone: 212-830-3847
Fax: 212-397-0789

 Joan M. McGivern / ASCAP

Joan M. McGivern
Samuel Mosenkis
ASCAP
One Lincoln Plaza
New York, New York 10023-7097
Telephone: 212-621-6450
Fax: 212-787-1381

 Michael J. Remington / BMI

Michael J. Remington
Philip J. Mause
Jeffrey J. Lopez
Drinker Biddle & Reath, LLP
1500 K Street, NW, Suite 1100
Washington, D.C. 20005-1209
Telephone: 202-842-8800
Fax: 202-842-8465

 I. Fred Koenigsberg / BMI

I. Fred Koenigsberg
Carol Witschel
White & Case
1155 Avenue of the Americas
New York, New York 10036-2787
Telephone: 212-819-8806
Fax: 212-354-8113