determined by a qualified, independent appraiser; or (b) the total acquisition cost and opportunity costs attributable to the CCIP/2 Interest. The proposed sale will be a one-time transaction for cash. In addition, the Plan will not be required to pay any fees, commission or expenses in connection with the sale. Mellon Bank represents that it will determine, prior to the sale, whether such transaction is appropriate for the Plan and is in the best interest of the Plan and its participants and beneficiaries.

7. CCIP/2 and its underlying assets were valued by Mr. Brad Davidson, President of Partnership Valuations, Inc. of Annapolis, Maryland. A qualified, independent appraiser, Mr. Davidson values non-traded securities for banks and brokerage firms. As of December 31, 1994, Mr. Davidson determined that the fair market value of each unit in CCIP/2 was worth $45. He also concluded that a 29 percent discount factor was appropriate to his appraisal of CCIP/2 due to its lack of marketability. Therefore, based upon Mr. Davidson's valuation of CCIP/2, the fair market value of the CCIP/2 Interest held by the Plan is $6,300 ($45 x 140 units).

8. Because the fair market value of the CCIP/2 Interest is less than its acquisition cost, LEGENT will purchase the CCIP/2 Interest for the latter amount. In addition, LEGENT represents that because the Plan did not receive an adequate rate of return on the CCIP/2 Interest, it will pay $3,059 to make up for the Plan's lost opportunity costs.[39] Accordingly, LEGENT will purchase the CCIP/2 Interest from the Plan for an aggregate purchase price of $18,459.[40]

9. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) all terms and conditions of the sale will be at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (b) the sale will be a one-time transaction for cash; (c) the Plan will not be required to pay any commissions, costs or other expenses in connection with the sale; (d) the Plan will receive a sales price which is not less than the greater of (i) the fair market value of the CCIP/2 Interest as determined by a qualified, independent appraiser or (ii) the total acquisition cost plus opportunity costs that are attributable to the CCIP/2 Interest; and (e) Mellon Bank will determine that the sale is an appropriate transaction for the Plan and in the best interests of the Plan and its participants and beneficiaries.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including section 401(a)(4), 404 and 415.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons by first-class mail within 30 days of the date of publication of the notice of proposed exemption in the Federal Register. Such notice will include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment on and/or to request a hearing. Comments with respect to the notice of proposed exemption are due within 60 days after the date of publication of this proposed exemption in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of November, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

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[39] LEGENT represents that the average rates of return for the remaining assets that were held each year by its predecessor Plans is a fair measure of the Plan's lost opportunity costs. Therefore, LEGENT has calculated interest on the amount invested in the CCIP/2 Interest for the Plan Years beginning October 1, 1991 since CCIP/2 paid income to the Plan through the Plan Year ending September 30, 1994. Using this method of calculation, LEGENT represents that the CCIP/2 Interest would have earned aggregate opportunity costs of $3,059.

[40] The applicant represents that the amount by which the purchase price for the CCIP/2 Interest exceeds its fair market value, if treated as an employer contribution to the Plan, when added to the annual additions to such Plan, will not exceed the limitation prescribed by section 415 of the Code.

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94–3 CARP–CD 90–92]

Distribution of 1990, 1991 and 1992 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of arbitration.

SUMMARY: The Copyright Office of the Library of Congress is announcing initiation of the 180 day arbitration period for the distribution of 1990–92 cable compulsory license royalties.

EFFECTIVE DATE: December 4, 1995.

ADDRESSES: All hearings and meetings for the 1990–92 cable distribution proceeding shall take place in the James Madison Memorial Building, Room 414, First and Independence Avenue, SE., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel or William Roberts, Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Section 251.72 of 37 CFR provides:

If the Librarian determines that a controversy exists among the claimants to either cable, satellite carrier, or digital audio recording devices and media royalties, the Librarian shall publish in the Federal Register a declaration of controversy along with a notice of initiation of an arbitration proceeding. Such notice shall, to the extent feasible, describe the nature, general structure and schedule of the proceeding.

The notice published today fulfills the requirements of § 251.72 for the distribution of cable compulsory license royalties for the years 1990–92.

On December 15, 1994, the Copyright Office published a notice in the Federal Register requesting comment as to the existence of controversies to the distribution of the 1990 cable royalty fund, 59 FR 64714 (December 15, 1994). In response to this notice, copyright owners identified the existence of controversies for distribution of the 1990 fund, as well as the 1991 and 1992 funds. The copyright owners requested that the Office consolidate the 1990–92 funds into a single distribution proceeding.

On March 21, 1995, the Office published a notice consolidating the 1990–1992 cable royalty funds into a single distribution proceeding, and announced the precontroversy discovery schedule, 60 FR 14971 (March 21, 1995). The Office also announced in that notice that controversies to the 1990–92 cable royalty funds would be declared, and arbitration initiated, on November 17, 1995, 60 FR at 14975.

In order to prepare for the commencement of proceedings, and to afford the cable royalty claimants the full use of the prescribed 180 days for arbitration, the Copyright Office has completed the selection of the arbitrators in accordance with 17 U.S.C. 802. The arbitrators for the 1990–92 cable distribution proceeding are:

The Honorable Mel R. Jiganti, Chairperson
The Honorable John B. Farmakides
The Honorable Ronald P. Wertheim

These arbitrators have signed their agreements to serve in the proceeding and have, pursuant to agreement by the cable claimants, begun background work in preparation for the commencement of the proceeding.

II. Joint Motion to Defer Commencement

On November 8, 1995, the parties to the proceeding filed a joint motion requesting a delay in the initiation of proceedings to December 29, 1995. They cited as their reasons: the time needed to produce the volume of discovery documents their motions to compel have generated; the time needed to evaluate the data contained in those discovery documents; the time needed to amend their direct cases in response to the granting of JSC's motion to add an additional issue to the proceeding; the potential for additional motions to be filed if discovery documents are not furnished as ordered; the difficulty of scheduling witnesses during the holidays and the loss of working days due to the holidays; the concern that the 180 day period will not be sufficient unless actual testimony begins on the heels of the initiation of the proceeding after all preliminary matters have been resolved; and a desire to have the mechanics of paying the arbitrators worked out before the initiation of proceedings.

The Copyright Office partially granted the joint motion to allow a delay to December 4, 1995, of the initiation of the 1990–92 cable royalty distribution proceeding in an Order dated November 13, 1995. *See* Order in Docket No. 94–3 CARP–CD 90–92 (November 13, 1995). In issuing its ruling, the Office noted in the Order that it engaged the services of the arbitrators on the basis of a starting date the parties themselves agreed to last spring and that any extension of the starting date would require amending the arbitrator's contracts and consideration of their loss of time to do other work. The Office therefore concluded that the six week delay requested by the parties would work a hardship on it and the arbitrators and decided that a December 4 commencement date was more appropriate. *Id.*

III. Initiation of Proceeding

Pursuant to § 251.72 of the CARP rules, the Copyright Office of the Library of Congress is formally announcing the existence of Phase I controversies to the distribution of cable compulsory license royalties for 1990, 1991 and 1992, and is initiating an arbitration proceeding under chapter 8 of title 17 to resolve the distribution of those funds. The arbitration proceeding commences on December 4, 1995, and runs for a period of 180 days, by which time the arbitrators shall make their report to the Librarian of Congress by June 1, 1996 in accordance with § 251.53 of the rules.

A meeting between the copyright claimants participating in the distribution proceeding and the arbitrators shall take place at 10 a.m. on Monday, December 4, 1995, at the above described address to discuss the hearing schedule, arbitrator billing and payment, and any other necessary procedural matters. The meeting is open to the public. Copies of the hearing schedule, once finalized, will be available at the Copyright Office upon request.

Dated: November 21, 1995.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–29044 Filed 11–27–95; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–104]

NASA Advisory Council (NAC), Aeronautics Advisory Committee, Subcommittee on Human Factors; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting Cancellation.

Federal Register Citation of Previous Announcement: 60FR55869, Notice Number 95–097, November 3, 1995.

Previously Announced Dates of Meeting: December 5, 1995, December 6, 1995, and December 7, 1995. Meeting has been canceled.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory W. Condon, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/604–5567.

Dated: November 20, 1995.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 95–28937 Filed 11–27–95; 8:45 am]

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