

the Copyright Royalty Judges have been granted subpoena powers to compel participants or witnesses to appear and give testimony. See 17 U.S.C. 803(b)(6)(C)(ix).

Moreover, there is a practical reason for making this determination. The requirement in section 112(e)(4) to determine rates is logical in that the two licenses involve different rights. The section 112 statutory license applies to reproductions, while the section 114 statutory license applies to public performances. Moreover, the beneficiaries of the section 114 license are not identical to the beneficiaries of the section 112 license. Royalties collected under section 114 are paid to the performers and the copyright owners of the sound recordings, i.e., usually the record companies; whereas, the royalties collected pursuant to the section 112 license are not paid to performers. Without separate rates for both the section 114 and 112 licenses, SoundExchange is unable to allocate properly the funds it collects as the Designated Agent and fulfill both its responsibility to distribute receipts to stakeholders of the public performance right under section 114(g) as well as its responsibility to distribute receipts to separate stakeholders of the reproduction right under section 112.

Consequently, the Register finds that the Copyright Royalty Judges' resolution to include rates for the section 112 license within rates and terms for the section 114, without specifying what percentage, if any, is attributable to the section 112 license, does not fulfill the Copyright Royalty Judges' responsibility to determine the value of the section 112 license for ephemeral copies. Both the text and the legislative history of section 112 indicate Congress' view that the rate setting body must determine the value of the section 112 license. See 17 U.S.C. 112(e)(3) (requiring reasonable rates and terms of royalty payments for the activities specified by paragraph (1) which shall include a minimum fee for each type of service offered by transmitting organizations); DMCA Conf. Rpt., 105-796, at 89-91; DMCA Section-by-Section Analysis at 52-53, 61-62.

Conclusion

Having reviewed the resolution by the Copyright Royalty Judges for legal error, the Register of Copyrights hereby concludes that in setting rates for the section 112 and 114 statutory licenses, the Copyright Royalty Judges must establish separate values for each of the two licenses and that rates for the section 112 license shall include a

minimum fee.³ Pursuant to the requirements established in 802(f)(1)(D), the Register issues this written decision not later than 60 days after the dates on which the final determinations by the Copyright Judges were issued. This decision shall be binding as precedent upon the Copyright Royalty Judges in subsequent proceedings.

Dated: February 14, 2008.

Marybeth Peters,

Register of Copyrights.

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NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10: a.m., Thursday, February 21, 2008.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Quarterly Insurance Fund Report.

2. *Final Rule:* Part 797 of NCUA's Rules and Regulations, Procedures for Debt Collection.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703-518-6304.

Mary Rupp,

Secretary of the Board.

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THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather C. Gottry, Acting Advisory Committee Management Officer, National Endowment for the

Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* March 4, 2008.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Stabilization 3 in Preservation and Access Grants for Stabilizing Humanities Collections, submitted to the Division of Preservation and Access, at the October 1, 2007 deadline.

2. *Date:* March 6, 2008.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Stabilization 4 in Preservation and Access Grants for Stabilizing Humanities Collections, submitted to the Division of Preservation and Access, at the October 1, 2007 deadline.

3. *Date:* March 13, 2008.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for National Digital Newspaper Program (NDNP) in National Digital Newspaper Program, submitted to the Division of Preservation and Access, at the November 1, 2007 deadline.

4. *Date:* March 13, 2008.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Digital Humanities

³ The Register, however, takes no position on what the value of the minimum fee should be, or whether it could be a fee of zero.