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Copyright Royalty Board

37 CFR Part 381

[Docket No. 16-CRB-0016-PBR-COLA (2017)]

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 2% in the royalty rates that colleges, universities, and other educational institutions not affiliated with National Public Radio pay for the use of published nondramatic musical compositions in the SESAC repertory for the statutory license under the Copyright Act for noncommercial broadcasting.

DATES: *Effective date:* January 1, 2017. *Applicability dates:* These rates are applicable to the period January 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney Advisor, by telephone at (202) 707-7658 or by email at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, title 17 of the United States Code, creates a statutory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting.

On November 29, 2012, the Copyright Royalty Judges (Judges) adopted final regulations governing the rates and terms of copyright royalty payments under section 118 of the Copyright Act for the license period 2013–2017. *See* 75 FR 71104. Pursuant to these regulations, on or before December 1 of each year, the Judges shall publish in the **Federal Register** a notice of the change in the cost of living for the rate codified at § 381.5(c)(3) relating to compositions in the repertory of SESAC. The adjustment, fixed to the nearest dollar, shall be the greater of “the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) [CPI-U] * * * during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1, of that year,” or 2%. 37 CFR 381.10.

The change in the cost of living as determined by the CPI-U during the period from the most recent index

published before December 1, 2014, to the most recent index published before December 1, 2016, is 1.6%.¹ In accordance with 37 CFR 381.10(b), the Judges announce that the COLA for calendar year 2017 shall be 2%. Application of the 2% COLA to the current rate for the performance of published nondramatic musical compositions in the repertory of SESAC—\$149 per station—results in an adjusted rate of \$152 per station.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Television, Rates.

Final Regulations

In consideration of the foregoing, the Judges amend part 381 of title 37 of the Code of Federal Regulations as follows:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1), and 803.

■ 2. Section 381.5 is amended by revising paragraph (c)(3)(v) to read as follows:

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

- * * * * *
- (c) * * *
- (3) * * *
- (v) 2017: \$152 per station.
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Dated: November 17, 2016.
Suzanne M. Barnett,
Chief Copyright Royalty Judge.
 [FR Doc. 2016-28178 Filed 11-22-16; 8:45 am]
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Copyright Royalty Board

37 CFR Part 386

[Docket No. 16-CRB-0017-SA-COLA (2017)]

Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

¹ On November 17, 2016, the Bureau of Labor Statistics announced that the CPI-U increased 1.6% over the last 12 months.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) of 1.6% in the royalty rates satellite carriers pay for a compulsory license under the Copyright Act. The COLA is based on the change in the Consumer Price Index from October 2015 to October 2016.

DATES: *Effective Date:* January 1, 2017. *Applicability Dates:* These rates are applicable to the period January 1, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle, Attorney Advisor, by telephone at (202) 707-7658 or by email at *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: The satellite carrier compulsory license establishes a statutory copyright licensing scheme for the retransmission of distant television programming by satellite carriers. 17 U.S.C. 119. Congress created the license in 1988 and has reauthorized the license for additional five-year periods, most recently with the passage of the STELA Reauthorization Act of 2014, Public Law 113–200.

On August 31, 2010, the Copyright Royalty Judges (Judges) adopted rates for the section 119 compulsory license for the 2010–2014 term. *See* 75 FR 53198. The rates were proposed by Copyright Owners and Satellite Carriers¹ and were unopposed. *Id.* Section 119(c)(2) of the Copyright Act provides that, effective January 1 of each year, the Judges shall adjust the royalty fee payable under Section 119(b)(1)(B) “to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) [CPI-U] published by the Secretary of Labor before December 1 of the preceding year.” Section 119 also requires that “[n]otification of the adjusted fees shall be published in the **Federal Register** at least 25 days before January 1.” 17 U.S.C. 119(c)(2).

The change in the cost of living as determined by the CPI-U during the period from the most recent index published before December 1, 2015, to the most recent index published before December 1, 2016, is 1.6%.² Application of the 1.6% COLA to the current rate for the secondary transmission of broadcast stations by satellite carriers for private

¹ Program Suppliers and Joint Sports Claimants comprised the Copyright Owners while DIRECTV, Inc., DISH Network, LLC, and National Programming Service, LLC, comprised the Satellite Carriers.

² On November 17, 2016, the Bureau of Labor Statistics announced that the CPI-U increased 1.6% over the last 12 months.