

A T T E N T I O N

Mandatory Regulation for Making Statutory License Royalty Fee Payments via Electronic Funds Transfer

E F F E C T I V E O C T O B E R 1 , 2 0 0 6

The Copyright Office amended Sections 201.11 (satellite carrier statements of account covering statutory licenses for secondary transmissions), 201.17 (statements of account covering statutory licenses for secondary transmissions by cable systems) and 201.28 (statements of account for digital audio recording devices or media) of Title 37 of the *Code of Federal Regulations* to require that all statutory license royalty fee payments be made via electronic funds transfer. The regulation is effective beginning October 1, 2006, and applicable to all royalty payments received on or after October 1, 2006, for past and subsequent accounting periods. For details see the *Federal Register*, August 10, 2006 (71 FR 45739) available at www.copyright.gov/fedreg/2006/71fr45739.html.

For detailed instructions concerning electronic payments, contact the Licensing Division between 8:30 AM and 5:00 PM eastern time by calling (202) 707-8150, faxing (202) 707-0905, or emailing licensing@loc.gov for circulars 74A (on payments via wire), 74B, (on payments via ACH credit), and 74C (on payments using *pay.gov*), which are also available at www.copyright.gov/circs/circ74.



United States Copyright Office



Important Notice to All Cable Operators

Please note that the Copyright Office is amending Section 201.17 of Title 37 of the Code of Federal Regulations to require that a legible copy of the semi-annual Statement of Account be submitted together with the original Statement of Account to the Licensing Division of the Copyright Office, effective July 1, 2005. (See *Federal Register*, May 26, 2005, 70 FR 30366.)

Library of Congress
Copyright Office
Licensing Division
101 Independence Ave., S.E.
Washington, DC 20557-6400

— OFFICIAL BUSINESS —
UNITED STATES COPYRIGHT OFFICE
STATEMENT OF ACCOUNT
SA1-2 (SHORT FORM)

**SPECIAL NOTICE
ABOUT THIS STATEMENT OF ACCOUNT**

Delayed Mail

Please note that delivery of all U.S. Postal Service and private carrier mail to the U.S. Copyright Office is being delayed as it is being screened for security reasons. Also, commercial couriers and messengers must deliver materials for the Copyright Office to: Congressional Courier Acceptance Site, 2nd and D Streets, NE, Washington, DC (Monday through Friday, 8:30 to 4:00 pm). Couriers having more than 10 items or packages exceeding 4" x 14" x 18" in size will be directed to another off-site facility. See our website at www.copyright.gov and go to the link "An important message about mail delivery" for the most current information. We encourage you to subscribe to *NewsNet*, a free electronic mailing list that issues alerts about mail and other copyright issues (simply send an email message to listserv@loc.gov, and in the body of the message, say "subscribe uscopyright," or subscribe at www.copyright.gov/newsnet).

Royalty Fee Payments via Electronic Funds Transfer

Royalty fee payments should be made by electronic funds transfer (EFT) using either the Automated Clearing House (ACH) network or the Fedwire Deposit System (Fedwire). You can originate an ACH using a personal computer with Internet access and following the simple instructions beginning at www.copyright.gov/licensing/royalty. Additional instructions on originating your own ACH can be obtained by contacting the Licensing Division. Also, your financial institution should be able to originate an ACH or Fedwire for you. Detailed information is available in Circular 74 at www.copyright.gov/circs/circ74.pdf.

The use of EFT has many benefits including: 1) allows you to keep funds longer, 2) eliminates lost or stolen checks, 3) allows for tracing of payments, 4) reduces operating costs, and 5) reduces paper handling.

Library of Congress
Copyright Office
Licensing Division
101 Independence Ave., S.E.
Washington, D.C. 20557-6400
Tel: (202) 707-8150
Fax: (202) 707-0905
www.copyright.gov

THIS FORM IS EFFECTIVE FOR ACCOUNTING PERIODS BEGINNING JULY 1, 2000.
 If you are filing for a prior accounting period, contact the Licensing Division for the correct form.

STATEMENT OF ACCOUNT
for Secondary Transmissions by Cable Systems (Short Form)

General Instructions are at the end of this form [pages (i)-(vi)].

FOR COPYRIGHT OFFICE USE ONLY	
DATE RECEIVED	AMOUNT
	\$
	ALLOCATION NUMBER

SA1-2 Short Form
 Return to:
 LIBRARY OF CONGRESS
 COPYRIGHT OFFICE
 LICENSING DIVISION
 101 INDEPENDENCE AVE., S.E.
 WASHINGTON, DC 20557-6400
 (202) 707-8150
 [Deliveries to LM-458]
 8:30 to 5:00

A Accounting Period	ACCOUNTING PERIOD COVERED BY THIS STATEMENT: (Check one of the boxes and fill in the year date.)
	<input type="checkbox"/> January 1 - June 30 (Year) <input type="checkbox"/> July 1 - December 31 (Year)

B Owner	INSTRUCTIONS: Give the full legal name of the owner of the cable system in Line 1. If the owner is a subsidiary of another corporation, give the full corporate title of the subsidiary, not that of the parent corporation. In Line 2, list any other names under which the owner conducts the business of the cable system. <input type="checkbox"/> Check here if this is the system's first filing. If not, enter the system's ID number assigned by the Licensing Division. _____
	1 LEGAL NAME OF OWNER OF CABLE SYSTEM
	2 BUSINESS NAME(S) OF OWNER OF CABLE SYSTEM (IF DIFFERENT):
	3 MAILING ADDRESS OF OWNER OF CABLE SYSTEM: (Number, Street, Rural Route, Apartment or Suite Number) (City, Town, State, ZIP Code)

C System	INSTRUCTIONS: In line 1, give any business or trade names used to identify the business and operation of the system unless these names already appear in space B. In line 2, give the mailing address of the system, if different from the address given in space B.
	1 IDENTIFICATION OF CABLE SYSTEM: 2 MAILING ADDRESS OF CABLE SYSTEM: (Number, Street, Rural Route, Apartment or Suite Number) (City, Town, State, ZIP Code)

D Area Served	INSTRUCTIONS: List each separate community served by the cable system. A "community" is the same as a "community unit" as defined in FCC rules: "... a separate and distinct community or municipal entity (including unincorporated communities within unincorporated areas and including single, discrete unincorporated areas.) 47 C.F.R. §76.5(mm). The first community that you list will serve as a form of system identification hereafter known as the "First Community." Please use it as the First Community on all future filings.			
	Note: Entities and properties such as hotels, apartments, condominiums or mobile home parks should be reported in parentheses below the identified city.			
First Community	CITY OR TOWN	STATE	CITY OR TOWN	STATE
			
			
			
			
			
			
			
			
			

LEGAL NAME OF OWNER OF CABLE SYSTEM:	Name
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SECONDARY TRANSMISSION SERVICE: SUBSCRIBERS AND RATES

In General: The information in space E should cover all categories of "secondary transmission service" of the cable system: that is, the retransmission of television and radio broadcasts by your system to subscribers. Give information about other services (including pay cable) in space F, not here. All the facts you state must be those existing on the last day of the accounting period (June 30 or December 31, as the case may be).

Number of Subscribers: Both blocks in space E call for the number of subscribers to the cable system, broken down by categories of secondary transmission service. In general, you can compute the number of "subscribers" in each category by counting the number of billings in that category (the number of persons or organizations charged separately for the particular service at the rate indicated—not the number of sets receiving service).

Rate: Give the standard rate charged for each category of service. Include both the amount of the charge and the unit in which it is generally billed. (Example: "\$8/mth"). Summarize any standard rate variations within a particular rate category, but do not include discounts allowed for advance payment.

Block 1: In the left-hand block in space E, the form lists the categories of secondary transmission service that cable systems most commonly provide to their subscribers. Give the number of subscribers and rate for each listed category that applies to your system. **Note:** Where an individual or organization is receiving service that falls under different categories, that person or entity should be counted as a "subscriber" in each applicable category. Example: a residential subscriber who pays extra for cable service to additional sets would be included in the count under "Service to the First Set," and would be counted once again under "Service to Additional Set(s)."

Block 2: If your cable system has rate categories for secondary transmission service that are different from those printed in block 1, (for example, tiers of services which include one or more secondary transmissions), list them, together with the number of subscribers and rates, in the right-hand block. A two or three word description of the service is sufficient.

E

**Secondary
transmission
Service:
Subscribers
and Rates**

BLOCK 1			BLOCK 2		
CATEGORY OF SERVICE	NO. OF SUBSCRIBERS	RATE	CATEGORY OF SERVICE	NO. OF SUBSCRIBERS	RATE
Residential:					
• Service to First Set					
• Service to Additional Set(s)					
• FM Radio (if separate rate)					
Motel, Hotel					
Commercial					
Converter					
• Residential					
• Non-Residential					

SERVICES OTHER THAN SECONDARY TRANSMISSIONS: RATES

In General: Space F calls for rate (not subscriber) information with respect to all your cable system's services that were not covered in space E. That is, those services that are not offered in combination with any secondary transmission service for a single fee. There are two exceptions: you do not need to give rate information concerning: (1) services furnished at cost; and (2) services or facilities furnished to nonsubscribers. Rate information should include both the amount of the charge and the unit in which it is usually billed. If any rates are charged on a variable per-program basis, enter only the letters "PP" in the rate column.

Block 1: Give the standard rate charged by the cable system for each of the applicable services listed.

Block 2: List any services that your cable system furnished or offered during the accounting period that were not listed in block 1 and for which a separate charge was made or established. List these other services in the form of a brief (two or three word) description, and include the rate for each.

F

**Services
Other Than
Secondary
Transmissions:
Rates**

BLOCK 1		BLOCK 2		BLOCK 2	
CATEGORY OF SERVICE	RATE	CATEGORY OF SERVICE	RATE	CATEGORY OF SERVICE	RATE
Continuing Services:		Installation: Non-Residential			
• Pay Cable		• Motel, Hotel			
• Pay Cable—Add'l Channel		• Commercial			
• Fire Protection		• Pay Cable			
• Burglar Protection		• Pay Cable—Add'l Channel			
Installation: Residential		• Fire Protection			
• First Set		• Burglar Protection			
• Additional Set(s)		Other Services:			
• FM Radio (if separate rate)		• Reconnect			
• Converter		• Disconnect			
		• Outlet Relocation			
		• Move to New Address			

LEGAL NAME OF OWNER OF CABLE SYSTEM:	Name
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GROSS RECEIPTS

Instructions: The figure you give in this space determines the form you file and the amount you pay. Enter the total of all amounts ("gross receipts") paid to your cable system by subscribers for the system's "secondary transmission service" (as identified in space E) during the accounting period. For a further explanation of how to compute this amount, see page (v) of the General Instructions.

K

Gross Receipts

- Gross receipts from subscribers for secondary transmission service(s) during the accounting period.....▶

\$
(Amount of "gross receipts")

IMPORTANT: You must complete a statement in space P concerning gross receipts.

INSTRUCTIONS FOR COMPUTING THE COPYRIGHT ROYALTY FEE

To compute the royalty fee you owe:

- Complete **either** block 1, block 2 **or** block 3
- Use block 1 if the amount of "gross receipts" in space K is \$98,600 or less
- Use block 2 if the amount of "gross receipts" in space K is more than \$98,600 but less than or equal to \$189,800
- Use block 3 if the amount of "gross receipts" in space K is more than \$189,800 but less than \$379,600

See page (vi) of the General Instructions for more information.

L

Copyright Royalty Fee

BLOCK 1: "GROSS RECEIPTS" OF \$98,600 OR LESS

INSTRUCTIONS: As a cable system with "gross receipts" of \$98,600 or less, the royalty fee that you must pay for this six-month accounting period is \$37.00

Line 1. Royalty Fee for Accounting Period \$ **37.00**

Line 2. Interest Charge. Enter the amount from line 4, space Q, page 8 \$

Line 3. **TOTAL ROYALTY FEE PAYABLE FOR ACCOUNTING PERIOD.** Add lines 1 and 2 \$

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BLOCK 2: "GROSS RECEIPTS" OF \$189,800 OR LESS (but more than \$98,600)

1. Base amount under statutory formula▶ **\$189,800**

2. Enter amount of "gross receipts" from space K▶

3. Subtract line 2 from line 1▶

4. Enter the amount of "gross receipts" from space K▶

5. Enter the amount from line 3▶

6. Subtract line 5 from line 4▶

7. Multiply line 6 by .005 (enter figure here)▶ \$

8. Interest Charge. Enter the amount from line 4, space Q, page 8▶ \$

9. **TOTAL ROYALTY FEE PAYABLE FOR ACCOUNTING PERIOD.** Add lines 7 and 8▶ \$

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BLOCK 3: "GROSS RECEIPTS" OF MORE THAN \$189,800 (but less than \$379,600)

1. Enter the amount of "gross receipts" from space K▶ \$

2. Base amount under statutory formula▶ **\$189,800**

3. Subtract line 2 from line 1▶

4. Multiply line 3 by .01▶

5. Royalty due on the first \$189,800 of gross receipts (under statutory formula)▶ **\$949**

6. Interest Charge. Enter the amount from line 4, space Q, page 8▶ \$

7. **TOTAL ROYALTY FEE PAYABLE FOR ACCOUNTING PERIOD.** Add lines 4, 5, and 6▶ \$


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IMPORTANT: When you file your Statement of Account on this form, SA1-2, you must also enclose with it the royalty fee you have computed in block 1, block 2, or block 3, above. Your remittance must be in the form of an **electronic payment, certified check, cashier's check, or money order**, payable to: *Register of Copyrights*. Other forms of remittance, including personal or company checks will be returned. Do not send cash. We recommend electronic payments.

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM:
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M Channels	<p>CHANNELS INSTRUCTIONS: You must give: (1) the number of channels on which the cable system carried television broadcast stations to its subscribers; and, (2) the cable system's total number of activated channels, during the accounting period.</p> <p>1. Enter the total number of channels on which the cable system carried television broadcast stations.</p> <div style="border: 1px solid black; width: 150px; height: 30px; margin-left: 700px;"></div> <p>2. Enter the total number of activated channels on which the cable system carried television broadcast stations and nonbroadcast services.</p> <div style="border: 1px solid black; width: 150px; height: 30px; margin-left: 700px;"></div>
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N Contact	<p>INDIVIDUAL TO BE CONTACTED IF FURTHER INFORMATION IS NEEDED: (Identify an individual to whom we can write or call about this Statement of Account.)</p> <p>Name Telephone (Area Code)</p> <p>Address (Number, Street, Rural Route, Apartment or Suite Number)</p> <p>..... (City, Town, State, ZIP Code)</p>
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O Certification	<p>CERTIFICATION: (This Statement of Account must be certified and signed in accordance with Copyright Office Regulations, as explained in the General Instructions.)</p> <ul style="list-style-type: none"> • I, the undersigned, hereby certify that: (Check one, but only one, of the boxes.) <ul style="list-style-type: none"> <input type="checkbox"/> (Owner other than corporation or partnership) I am the owner of the cable system as identified in line 1 of space B; or <input type="checkbox"/> (Agent of owner other than corporation or partnership) I am the duly authorized agent of the owner of the cable system as identified in line 1 of space B, and that the owner is not a corporation or partnership; or <input type="checkbox"/> (Officer or partner) I am an officer (if a corporation) or a partner (if a partnership) of the legal entity identified as owner of the cable system in line 1 of space B. • I have examined the Statement of Account and hereby declare under penalty of law that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith. [18 U.S.C., Section 1001(1986)] <div style="margin-top: 20px;">  <p style="margin-left: 100px;">Handwritten signature: (X)</p> <p style="margin-left: 100px;">Typed or printed name:</p> <p style="margin-left: 100px;">Title: (Title of official position held in corporation or partnership)</p> <p style="margin-left: 100px;">Date:</p> </div>
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PRIVACY ACT ADVISORY STATEMENT—Required by Privacy Act of 1974 (Public Law 93-579)

<p>Authority for Requesting This Information:</p> <ul style="list-style-type: none"> ● Title 17, U.S.C. §111 	<p>Furnishing This Information is:</p> <ul style="list-style-type: none"> ● Voluntary 	<p>But If the Information is Not Furnished:</p> <ul style="list-style-type: none"> ● It may be necessary to delay placement of this Statement of Account in the completed record of Statements of Account. 	<p>Principal Uses of Requested Information:</p> <ul style="list-style-type: none"> ● Establishment and maintenance of a public record.
<p>You may be liable for civil or criminal penalties for copyright infringement with respect to retransmission of television and radio stations (17 U.S.C. §§502-506, 509-510)</p>	<p>Examination of the Statement of Account for compliance with legal requirement</p>	<p>Other Routine Uses:</p> <ul style="list-style-type: none"> ● Public inspection and copying ● Preparation of public indexes ● Preparation of search reports upon request 	<p>Note:</p> <ul style="list-style-type: none"> ● No other advisory statement will be given you in connection with this Statement of Account ● Please retain a copy of this statement and refer to it if we communicate with you regarding this Statement of Account

LEGAL NAME OF OWNER OF CABLE SYSTEM:	Name
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SPECIAL STATEMENT CONCERNING GROSS RECEIPTS EXCLUSION

The Satellite Home Viewer Act of 1988 amended Title 17, section 111(d)(1)(A), of the Copyright Act by adding the following sentence:

"In determining the total number of subscribers and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, the system shall not include subscribers and amounts collected from subscribers receiving secondary transmissions for private home viewing pursuant to section 119."

For more information on when to exclude these amounts, see the note on page (v) of the General Instructions.

During the accounting period did the cable system exclude any amounts of gross receipts for secondary transmissions made by satellite carriers to satellite home "dish" owners?

- NO
- YES. Enter the total here \$ _____
and list the satellite carrier(s) below.

P

**Statement of
Gross Receipts**

Name	Name
Mailing Address	Mailing Address
.....
.....
Name	Name
Mailing Address	Mailing Address
.....
.....

WORKSHEET FOR COMPUTING INTEREST

You must complete this worksheet for those royalty payments submitted as a result of a late payment or underpayment. For an explanation of interest assessment, see page (vi) General Instructions.

Line 1. Enter the amount of late payment or underpayment \$ _____
x _____ %

Line 2. Multiply line 1 by the interest rate* and enter the sum here
x _____ days

Line 3. Multiply line 2 by the number of days late and enter the sum here
x .00274

Line 4. Multiply line 3 by .00274** and enter here and in space L (page 6) Block 1,
line 2, or Block 2, line 8, or Block 3, line 6 \$ _____
(interest charge)

*Contact the Licensing Division at 202-707-8150 for the interest rate for the accounting period in which the late payment or underpayment occurred.

**This is the decimal equivalent of 1/365, which is the interest assessment for one day late.

NOTE: If you are filing this worksheet covering a Statement of Account already submitted to the Copyright Office, please list below the Owner, Address, First Community Served, and Accounting Period as given in the original filing.

Owner

Address

.....

First Community Served

Accounting Period

Q

**Interest
Assessment**

**IF YOU ARE FILING FOR A PRIOR ACCOUNTING PERIOD,
CONTACT THE LICENSING DIVISION FOR THE CORRECT FORM.**

USE THIS FORM WHEN:

- You are the owner (or represent the owner) of a cable system; and
- You are filing the semiannual Statement of Account required by the copyright law; and
- Your system's semiannual "gross receipts for secondary transmissions" (the figure you give in space K of the form) is **less than \$379,600**; and
- You are also depositing the required semiannual royalty fee with the Licensing Division of the Copyright Office.

**IF YOUR FIGURE FOR SEMIANNUAL "GROSS RECEIPTS" IN SPACE K IS \$379,600 OR MORE,
USE SA3 (LONG FORM)**

GENERAL INSTRUCTIONS FOR SA1-2 (SHORT FORM)

CABLE SYSTEMS AND THE COPYRIGHT LAW (P.L. 94-553)

Cable systems are subject to copyright liability for their use of copyrighted material in "secondary transmissions" (the retransmission of television and radio broadcasts to subscribers). Cable retransmissions of copyrighted programming are subject to a system of "statutory licensing." Among other things this means that twice a year the owner of a cable system must send a Statement of Account, together with a royalty fee, to the Licensing Division of the Copyright Office.

"Primary Transmissions" and "Secondary Transmissions"

In providing copyright liability for cable systems, the law draws a distinction between "primary transmissions" and "secondary transmissions":

- **"Primary Transmissions"**: These include broadcasts by radio and television stations to the public that are retransmitted by cable systems to their subscribers.
- **"Secondary Transmissions"**: This is the basic service of retransmitting television and radio broadcasts to subscribers. The statute requires all U.S. cable systems, regardless of how many subscribers they have or whether they are carrying any distant signals, to pay some copyright royalties. However, instead of obliging cable systems to bargain individually for each copyrighted program they retransmit, the law offers them the opportunity of obtaining a "statutory license" for secondary transmissions.

Note: "Secondary Transmissions" do not include transmissions originated by a cable system (including local origination cablecasting, pay cable, program services, background music services, and originations on leased or access channels). Cable systems must negotiate for the use of any copyrighted material in the programming they originate, and their originations are not subject to statutory licensing.

HOW TO FILE THE STATEMENT OF ACCOUNT AND ROYALTY FEE

- First:** Study the general information on these pages and read through the detailed instructions in the Statement of Account form itself. Before you start completing the form, make sure that you have collected all of the necessary information and that you are using the right form.
- Second:** Fill out the Statement of Account form, giving all of the required information about your cable system and about the television and radio stations carried by it. Use a typewriter, or print the information in black ink.
- Third:** Certify the Statement of Account by signing at space O. The Statement of Account is not acceptable unless it bears the original handwritten signature of one of the persons indicated in space O as authorized to certify it under Copyright Office Regulations.
- Fourth:** Make an **electronic payment** (see **Note** below) or obtain a **certified check, cashier's check** or **money order** in the amount you have calculated in space L, to cover the copyright royalty fee. Payment in any other form (such as personal or company checks) **will be returned**. The remittance should be payable to: Register of Copyrights. Do not send cash. We recommend electronic payments.
- Fifth:** Send the completed Statement of Account, together with the copyright royalty fee, to:
Library of Congress
Copyright Office
Licensing Division
101 Independence Ave., S.E.
Washington, D.C. 20557-6400
Deliveries to LM-458, 8:30 a.m. to 5:00 p.m.
- Sixth:** The Copyright Office will retain your Statement of Account and make it a part of our public records. You should, therefore, keep a copy of the entire Statement, as filed, in case you need it for future reference.

Note: For detailed instructions concerning electronic payments, contact the Licensing Division for **Circular 74**, which is also available via the Internet at the following addresses:
World Wide Web: www.loc.gov/copyright/carp;
Telnet: locis.loc.gov.

HOW THE “STATUTORY LICENSE” WORKS

In general, having a statutory license means that a cable system can retransmit broadcast programming without violating the copyright law, as long as it complies with certain paperwork requirements and, twice a year, deposits a royalty fee with the Copyright Office.

- The cable system can, without negotiated licenses or advance permission from copyright owners, retransmit signals of any U.S. television or radio stations that it is authorized to carry under FCC rules, regulations, or authorizations (plus Mexican or Canadian stations in certain cases); and
- The cable system must file Statements of Account with the Copyright Office and must also deposit a semiannual royalty. The amount of the royalty, which is established under a statutory formula, depends on the total of the system’s gross receipts for secondary transmission service.
- Every 6 months the cable system must send the Copyright Office a Statement of Account on this form, SA1-2 (Short Form), or on SA3 (Long Form) (if the “gross receipts” are \$379,600 or more).
- Each semiannual Statement of Account must be accompanied by the deposit of a royalty fee covering retransmissions during the preceding 6 months in the form of an electronic payment or a certified check, cashier’s check, or money order payable to: Register of Copyrights.

Why Having a Statutory License Is Important

Most television and radio broadcasts contain copyrighted material. Without a statutory license, a cable system would either have to negotiate licenses for all copyrighted programming it transmits or run the risk of substantial civil (or, in some cases, criminal) liability for multiple acts of copyright infringement.

Who Can Utilize the Statutory License

Under the statute and Copyright Office Regulations, retransmissions are subject to statutory licensing only if they are made by “cable systems”.

“**Cable system**”: A “cable system” is defined as “a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, microwave, or other communications channels to subscribing members of the public who pay for such service.” A system that meets this definition is considered a “cable system” for copyright purposes, even if the FCC excludes it from being considered a “cable system” because of the number or nature of its subscribers or the nature of its secondary transmissions.

“**Individual**” cable system: An “individual” cable system is defined generally as “each cable system recognized as a distinct entity under the rules, regulations, and practices of the Federal Communications Commission....” In addition, two or more cable facilities are considered as one “individual” cable system if either: (A) the facilities are in contiguous communities and are under common ownership or control; or (B) the facilities operate from one headend. Thus, even if they are owned by different entities, two cable facilities will be considered as one “individual” cable system if they share a common headend.

WHAT A STATUTORY LICENSE DOES NOT PERMIT YOU TO DO

The statutory authority given to cable systems to retransmit television and radio broadcasts under a statutory license is limited in several ways:

- **Originations.** To repeat: a cable system’s statutory license extends only to secondary transmissions (retransmissions). It does not permit the system to make any originations of copyrighted material without a negotiated license covering that material.
- **Nonsimultaneous Retransmissions.** In general, to be subject to statutory licensing under the copyright law, a cable retransmission must be simultaneous with the broadcast being carried. As a rule, taping or other recording of the program is not permitted. Taping for delayed transmission is permissible only for some (not all) cable systems located outside the 48 contiguous States; and, even in these exceptional cases, there are further limitations and conditions that the cable system must meet.
- **FCC Violations.** The broadcast signals that a cable system can carry under a statutory license are limited to those that it is permitted to carry under FCC rules, regulations, and authorizations. If signal carriage is in violation of FCC requirements, the cable system may be subject under the Copyright Act to a separate action for copyright infringement for each unauthorized retransmission.
- **Foreign Signals.** In general, the copyright law does not permit a cable system to retransmit signals of foreign television and radio stations under a statutory license. The only exceptions have to do with the signals of certain Mexican and Canadian stations. Unless foreign signals fall within these exceptions, their carriage would not be authorized under a statutory license, even if permissible under FCC rules.
- **Program Alteration or Commercial Substitution.** Cable systems are not permitted to alter the content of retransmitted programs, or to change, delete, or substitute commercials or station announcements in or adjacent to programs being carried. There is only one exception: under certain circumstances, substitutions involving “commercial advertising market research” may be permitted.

Accounting Periods

The statute establishes two 6-month accounting periods for purposes of computing the royalty fee and reporting the information called for in the Statement of Account. The first semiannual period runs from January through June, and the second from July through December, of each calendar year. You must use these accounting periods whether or not they coincide with the beginning or ending of your cable system's fiscal year.

Filing Dates

Cable systems are given 60 days after the close of each accounting period in which to file their Statements of Account and royalty fees. The following are the two filing dates you must observe each year:

- For the January-June accounting period: **File between July 1 and August 29, inclusive;**
- For the July-December accounting period: **File between January 1 and March 1, inclusive.**

***Note:** If August 29 or March 1 falls on a weekend or Federal holiday, statements of account and royalty fees may be made on the next succeeding business day.

Statements of Account and royalty fees received before the end of the accounting period will not be accepted. Statements and fees received after the August 29 or March 1 deadlines will be accepted for whatever legal effect they may have, if any. The Copyright Office takes no position as to what this effect will be, and a cable system that files late runs a substantial risk.

Refunds

Refund requests must be received within 60 days after the close of the filing period (by April 30 or October 28). Also, refund requests for late and amended payments must be received before the expiration of 60 days from the date of receipt at the Copyright Office of the royalty payment that is the subject of the request. The Debt Collection Improvement Act of 1996 requires that refunds be made through Electronic Funds Transfer (EFT). Note: Late payments are subject to interest assessment. See page (vi) of the General Instructions. Contact the Licensing Division for additional information.

How Royalty Fees Are Handled

For purposes of computing the semiannual royalty fee a cable system must pay, the statute creates three brackets, depending upon the system's gross receipts from subscribers for secondary transmissions during the accounting period:

1. **Gross receipts of \$98,600 or less:** royalty fee of \$37;
2. **Gross receipts of more than \$98,600 and less than \$379,600:** royalty fee determined by a formula based on percentage of gross receipts;
3. **Gross receipts of \$379,600 or more:** royalty fee determined by a formula based on percentage of gross receipts and on the number of distant stations carried by the system.

A cable system is required to deposit its semiannual royalty fee with the Copyright Office at the time it files each Statement of Account. Where the royalty is made by electronic payment, the related Statement of Account must be filed by the appropriate deadline accompanied with a cover letter (**see Circular 74**). The Copyright Office transfers these fees into a special fund, which is later distributed to copyright owners as payment for the use of their works by cable systems.

PURPOSES OF THE STATEMENT OF ACCOUNT

The law requires a cable system to file Statements of Account for two purposes:

- To show the basis for the semiannual royalty fee the cable system owes under its statutory license; and
- To give the information needed to allocate royalty fees among copyright owners.

Thus, some of the information you give on your Statement of Account has nothing to do with computing your "gross receipts" or deciding the amount of your royalty fee. Nevertheless, you are required to give the additional information in order to provide the basis for the second phase of the statutory license: the distribution of fees to copyright owners.

SOME POINTS TO REMEMBER ABOUT STATUTORY LICENSES:

- As long as a cable system keeps its statutory license in force by complying with the requirements of the new copyright law, it is not obliged to negotiate individual copyright licenses for retransmission of television and radio broadcasts.
- The following are among the various ways a cable system can lose its statutory license: by failing to file the Statements of Account or royalty fees; by taping for delayed retransmission; by carrying signals in violation of FCC requirements; by carriage of certain foreign stations; and by altering programs or substituting commercials.
- Without a statutory license, a cable system can be sued by a copyright owner for the full range of civil remedies for copyright infringement, including injunctions, actual damages and profits, or statutory damages (of up to \$150,000 in cases of willful infringement). The statute also provides for criminal penalties in cases of willful infringements for commercial purposes.

WHAT FACTS THE STATEMENT OF ACCOUNT SHOULD COVER

All of the information you give in a Statement of Account must be an accurate presentation of the facts existing during the accounting period covered by that Statement (or, in certain cases, on the last day of that period).

- **Spaces D, G, H, and I:** List all areas served, stations carried, and certain substitute programs carried at any time during the accounting period.
- **Spaces K and M:** You should report the total of “gross receipts” attributable to the particular accounting period in space K. The figures requested in space M should be the appropriate totals of channels for the entire period.
- **Space J:** This space (part-time carriage log) has been deleted.
- **Spaces B, C, E, and F:** Even if items of information concerning the owner, system, subscribers, or rates have changed during the accounting period, your Statement of Account does not need to reflect the change. Give only the facts existing on the last day of the accounting period. If there were different owners during the accounting period, only the owner on the last day of the accounting period should submit a single statement of account and royalty fee payment covering the entire accounting period.

SPACE G (Primary Transmitters: Television)

Stations Actually Carried. Make sure that space G lists all the television stations your system actually carried at any time during the accounting period (except as explained in space G of the Form). Do not list stations that were not in fact carried during that period, even if the FCC has authorized their carriage, and even if they were carried during earlier accounting periods.

Low Power Television Stations

- The Copyright Act in section 111(f) delineates the local status of a low power television station as follows: “In the case of a low power television station, as defined by the rules and regulations of the Federal Communications Commission, the ‘local service area of a primary transmitter’ comprises the area within 35 miles of the transmitter site, except that in the case of such a station located in a standard metropolitan statistical area which has one of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20 miles.” This means that a low power television station carried by a cable system within an area as defined above will be considered “local”.

Translator Stations

- **Translator Stations Must Be Listed.** For Copyright purposes, a translator station is a “primary transmitter” not

only of any programs it originally transmits but also of all the programming it receives from its “parent” station and retransmits. Thus, if your cable system carried signals emanating from a translator station, you must list the translator station in space G. And, if your system separately carried signals from both a translator station and its “parent” station, both the translator and the parent station should be identified.

- **Type of Translator Station.** For any translator station listed in space G, the “type of station” indicated in column 3 should be that of the parent station.

Definitions of Types of Stations: Under the Copyright Act, the terms used in connection with column 3 of space G mean the following:

- **Network station:** “a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the station’s typical broadcast day.”
- **Independent station:** a commercial television broadcast station other than a network station. For purposes of determining a station’s type value this category includes all specialty, Canadian and Mexican stations.
- **Noncommercial educational station:** a television station that either: (1) is licensed by the FCC as a noncommercial educational broadcast station and is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or (2) is owned and operated by a municipality and transmits only noncommercial programs for educational purposes.

SPACE H (Primary Transmitters: Radio)

All-Band Carriage. If your system carried FM radio stations on an all-band basis, you are not required to list every station that subscribers might possibly have received during the accounting period. Instead, Copyright Office Regulations require you to monitor your FM transmission service at your system’s headend from time to time during the accounting period and to report the “generally receivable” FM stations identified as a result of your monitoring.

Stations “Generally Receivable.” There are two standards for determining whether an FM station is “generally receivable”:

1. Is the station usually carried whenever it is received at your system’s headend; and
2. Can the station be expected to be received at the headend, with your system’s FM antenna, “at least three consecutive hours each day at the same time each day, five or more days a week, for four or more

weeks during any calendar quarter, with a strength of not less than fifty microvolts per meter measured at the foot of the tower or pole to which the antenna is attached”?

The monitoring arrangements you set up should be aimed at determining what stations can reasonably be expected to meet these standards.

Monitoring Activities. It is not necessary to monitor continuously throughout the accounting period, and you are not required to make precise measurements to determine which stations in fact meet the technical standards and which do not. Your monitoring activities should take place periodically at your headend during the accounting period and you should use a good FM receiver.

SPACE I (Substitute Carriage: Special Statement and Program Log)

Substitute Programs Must Be Logged and Reported.

The Copyright Act requires all cable systems to submit, with their Statement of Account, “logs showing the times, dates, stations, and programs” involved in “any nonnetwork television programming that was carried in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances.” The applicable present and former rules and regulations are identified in item 3 which follows.

What Programs Must Be Listed. You must list a program in space I if all three of the following conditions apply:

1. **The program is a “nonnetwork television program.”** A “nonnetwork television program” is a program that was not being broadcast by a station as part of a network television broadcast at the time the cable system carried it.
2. **The program is picked up from a “distant station.”** A “distant station” is a television station carried by a cable system in whole or in part beyond that station’s “local service area.” A television station’s “local service area” is the area within which the station “is entitled to insist upon its signal being retransmitted by a cable system pursuant to rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976. Effective on July 1, 1994, a station’s “local service area” also includes the station’s television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations.
3. **The program was carried by the cable system in substitution for another program under FCC rules, regulations, or authorizations:**

- Where FCC rules and regulations in effect on the date of carriage require the deletion of certain programming of one station and permit substitution of programming from another distant station. That is, if a cable system is required to delete a station because of the FCC sports exclusivity rules.
- Where the FCC rules, regulations and authorizations in effect on October 19, 1976, permit a cable system at its option, to delete programming, and authorize the system to substitute programming from another distant station. That is, if the cable system elects to delete a distant station while that station is broadcasting a program primarily of local interest to the distant community, for copyright purposes former FCC rules sections 76.61(b) (2) and 76.63 (incorporating 76.61(b) (2)) continue to authorize the station to substitute the programming of any other distant station.

NOTES:

- 1) The provisions of the Copyright Act dealing with voluntary deletion and substitution of programs are limited to programs substituted under FCC rules, regulations, and authorizations **in effect on October 19, 1976.**
- 2) Effective January 1, 1990, the FCC amended Parts 73 and 76 of its rules relating to program exclusivity in the cable and broadcast industries.

SPACE K (Gross Receipts)

What Are “Gross Receipts.” The “gross receipts” you enter in space K are the receipts for the “basic service of providing secondary transmissions of primary broadcast transmitters.” **They include the full amount of monthly (or other periodic) service fees for any and all services or tiers of services which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees.** All such gross receipts shall be aggregated and the royalty fee calculations shall be made against the aggregated amount. Gross receipts for secondary transmission services do not include installation (including connection, relocation, disconnection or reconnection) fees, separate charges for security, alarm or facsimile services, charges for late payments, or charges for pay cable or other program origination services: Provided that, the origination services are not offered in combination with secondary transmission service for a single fee.

“SATELLITE CARRIER” GROSS RECEIPTS EXCLUSION

- The “Satellite Home Viewer Act of 1988,” Public Law 100-667, as amended by Public Law 103-369, and Public Law 106-113, establishes a statutory license for certain secondary transmissions made by satellite carriers to satellite “dish” owners for private home viewing. Satellite carriers are subject to copyright liability for their use of copyrighted material when they make secondary “transmissions” (retransmissions of television broad-

casts) to satellite dish owners and they make a direct or indirect charge for that service. Satellite carrier retransmissions of the copyrighted programming embodied in the signals of superstations or network stations are eligible under an operational system of statutory licensing, that is established in section 119 of the Copyright Act.

- A “**satellite carrier**” is defined in the Satellite Home Viewer Improvement Act of 1999 as “an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provide such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.”
- As provided in the Satellite Home Viewer Act [amendment of section 111(d)(1)(A)], any amounts collected by a cable system/distributor from subscribers should be excluded from the cable system’s determination of gross receipts received for the basic service of providing secondary transmissions of primary broadcast transmitters pursuant to the cable statutory license, section 111 (c) to (f). This provision contemplates the situation where the same entity may be offering both satellites and cable distribution of secondary transmissions of primary broadcast transmitters.
- If a cable system offers both satellite and cable services to satellite dish owners, then it may exclude those amounts attributed to the satellite service under section 119 of the Act. Such a system should declare on page 8, the amount of “gross receipts” that are excluded for this service, and list the name and address of each satellite carrier in which the system has contracted as a distributor or agent to market the carrier’s retransmissions service. The system should also maintain separate records of the subscriber fees received for satellite carrier retransmissions.

Accrual Basis: If your revenue accounts are kept on an accrual basis, the figure you give in space K should be the total of all gross receipts for “secondary transmission service” accrued for the accounting period. Subtract bad debts actually written off during the period, and add previously written-off debts that were actually recovered during the period. (However, do not make adjustments for bad debts for “secondary transmission service” furnished before January 1, 1978.)

Cash Basis: If your revenue accounts are kept on a cash basis, your “gross receipts” are all amounts actually

received during the accounting period for “secondary transmission service.”

Space L (Copyright Royalty Fee)

Statutory Formulas for Computing the Royalty Fee:

For cable systems whose semiannual “gross receipts” are under \$379,600, the method of calculating the royalty fee depends on the amount of “gross receipts” reported in space K.

“Gross Receipts” of \$98,600 or less: If the figure you give in space K is \$98,600 or less, your royalty fee has been calculated for you in accordance with the formula set out in section 111(d)(2)(C) of the Copyright Act as adjusted. The amount is \$37. Do not use blocks 2 and 3.

“Gross Receipts” of more than \$98,600 but less than or equal to \$189,800: If the figure you give in space K is more than \$98,600 but less than or equal to \$189,800, your royalty fee must be calculated in accordance with the formula set out in section 111(d)(2)(C) of the Copyright Act, as adjusted. Follow the step-by-step calculations in block 2 of space L. Do not use blocks 1 and 3.

“Gross Receipts” of more than \$189,800 but less than \$379,600: If your “gross receipts” figure in space K is more than \$189,800 but less than \$379,600, you must use the formula set out in section 111(d)(2)(D) of the Act, as adjusted. Follow the step-by-step calculations in block 3 of space L. Do not use blocks 1 and 2.

Interest Charges For Underpayments and Late Payments

Underpayments or late payments received after the filing deadline shall be subject to an interest assessment. Cable systems must calculate their own interest charge. (A worksheet is provided at space Q, page 8.) The interest rate set for a specific accounting period is the U.S. Treasury Current Value of Funds Rate in effect on the first business day after the close of the filing deadline for that accounting period. Cable systems may obtain the interest rate for the applicable accounting period(s) by contacting the Licensing Division 202-707-8150.

For underpayments and late payments the interest shall begin to accrue on the first day after the close of the filing date for that accounting period. For a late payment the accrual period ends on the date that the Statement of Account and proper form of payment are received in the Copyright Office. For underpayments the accrual period ends on the date appearing on the certified check, cashier’s check, money order, or electronic payment, provided that the remittance is received in the Copyright Office within five business days of that date. **Note:** The Office shall not require, nor notify a cable system of, an interest charge of \$5.00 or less.