

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400

Official Business

Penalty for Private Use \$300
Forwarding Service Requested

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

SPECIAL NOTICE ABOUT THIS STATEMENT OF ACCOUNT

IMPORTANT

Ownership Changes: 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.

Photocopy Required:

A legible copy of the semiannual statement of account must be submitted together with the original statement of account to the Copyright Office.

Electronic Payment of Royalty Fees Required:

Detailed instructions for making royalty payments via electronic funds transfer (EFT) are contained in circulars 74A, 74B, and 74C, which are available at www.copyright.gov/circs/circ74 or by contacting the Licensing Division (8:30 AM and 5:00 PM EST) by phone at (202) 707-8150, fax (202) 707-0905, or email licfiscal@loc.gov. The remittance must be made payable to *Register of Copyrights*.

Remittance Advice Information: Federal regulations (C.F.R. Title 37 201.17 [i]) require that a remittance advice be attached to the statement(s) of account, and a copy of the remittance advice be emailed or sent by facsimile to the Licensing Division. The Office uses this remittance information to ensure the funds received via EFT are correctly allocated to each statement of account. Filing an accurate advice (1) facilitates processing of your payments, (2) minimizes our contact or correspondence with you, and (3) reduces administrative and other costs.

Convenient form at <http://www.copyright.gov/licensing/remittance-advice.pdf>.

Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400
Tel: (202) 707-8150 (8:30 A.M.–5:00 P.M., EST) Fax: (202) 707-0905
Email: licensing@loc.gov or Web: www.copyright.gov/licensing

ATTENTION CABLE OPERATORS

Statutory Changes Affecting Statements of Account

Statement of account (SOA) forms for cable operators for the accounting period beginning on January 1, 2010, have been revised to conform with new statutory amendments pursuant to Section 104 of the Satellite Television Extension and Localism Act of 2010 (STELA), Public Law 111-175. The SA-3 (Long Form) reflects the royalty rate adjustments found in STELA and includes modifications to accommodate other changes in the law. These changes are highlighted below.

Information on STELA is available at www.copyright.gov, and the new forms will be available at www.copyright.gov/forms. The SOAs are subject to further changes as the Office continues to implement several sections of the new law.

RATE CHANGES. The new base rate fees for carriage of a distant signal are as follows:

First distant signal equivalent (DSE):	0.01064
Second, third, and fourth DSE:	0.00701
Additional DSEs over four:	0.00330

However, no changes were made to the gross receipts threshold levels used to calculate the royalty fees, the 3.75 percent fee, the syndicated exclusivity surcharge, or the SA1-2 (Short Form) royalty rates.

MULTICAST STREAMS. Cable operators will also have to begin reporting and paying for carriage of certain distant multicast streams. For information on how to calculate royalty fees for carriage of distant multicast streams, refer to page (v) of the SA-3 general instructions. For further information, refer to www.copyright.gov/licensing/multicasting. Distant multicast streams are not subject to the 3.75 percent fee or the syndicated exclusivity surcharge.

COMMUNITY-BY-COMMUNITY REPORTINGS. It is no longer necessary to report television signals on a system-wide basis. Carriage of television broadcast

signals shall instead be reported on a community-by-community basis (“subscriber groups”). Guidance for reporting the carriage of television broadcast signals on a community-by-community basis is provided on a revised Space D form and at the back of the SA-3 form (will be available at www.copyright.gov/forms).

NEW DEFINITION OF “LOCAL SERVICE AREA.” The statutory definition of the “local service area of a primary transmitter” has been amended to include the noise limited contour as an additional way to determine the local or distant status of a digital television signal and related multicast streams.

ADDITIONAL DEFINITIONS. The terms “primary transmitter,” “primary stream,” “multicast stream,” “simulcast,” “subscriber,” and “subscribe” have been added. The definitions for distant signal equivalent, network station, independent station, noncommercial educational station, and primary transmission were amended. See the general instructions for the definitions of newly added terms and the amended definitions.

NEW ADDITIONAL DEPOSIT. Section 111(d) has been amended to provide the Copyright Office with the authority to accept further deposits in limited instances from cable operators in addition to payments made for the retransmission of distant broadcast signals. Cable operators making additional deposits under the statute shall use a form provided by the Copyright Office for this purpose.

If you did not receive the correct form, or if you have any questions, please contact the Licensing Division of the Copyright Office between 8:30 AM and 5:00 PM eastern time. TEL: (202)707-8150, FAX: (202)707-0905, EMAIL: licensing@loc.gov.

Have you tried pay.gov?

It's free

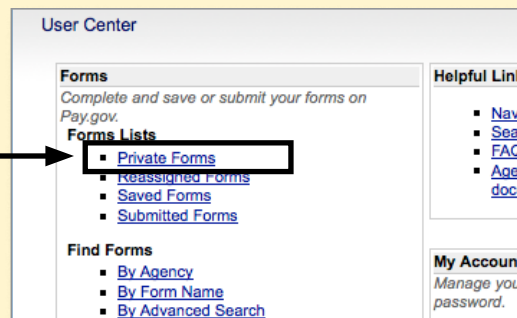
Pay.gov makes it easy and economical to make secure electronic payments to the Register of Copyrights.

It's easy as 1-2-3

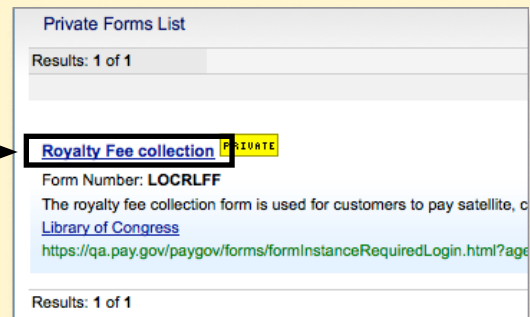
1. If you are a registered user, go directly to *www.pay.gov* and log in. If you are not already registered, call (202) 707-8150 to establish an account.



2. Once you enter *www.pay.gov*, click on *Private Forms* under the Forms list.



3. Go to *Royalty Fee Collection* to submit your payment.



NOTE: Detailed instructions for using *www.pay.gov* are available on the Copyright Office website at www.copyright.gov/circs/circ74c.pdf.

THIS FORM IS EFFECTIVE FOR ACCOUNTING PERIODS BEGINNING JANUARY 1, 2010
 If you are filing for a prior accounting period, contact the Licensing Division for the correct form.

**SA1-2
 Short Form**

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

General instructions are at the end of this form [pages (i)–(vii)].

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

Return to:
 Library of Congress
 Copyright Office
 Licensing Division
 101 Independence Ave. SE
 Washington, DC 20557-6400
 (202) 707-8150

For courier deliveries,
 see page ii of the general
 instructions.

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)

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)

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(dd). 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 <i>first community</i> 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

Privacy Act Notice: Section 111 of title 17 of the United States Code authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effects of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

LEGAL NAME OF OWNER OF CABLE SYSTEM:	Name
<p>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.</p> <ul style="list-style-type: none"> • Gross receipts from subscribers for secondary transmission service(s) during the accounting period. <p>IMPORTANT: You must complete a statement in space P concerning gross receipts.</p>	<p style="font-size: 2em; font-weight: bold;">K</p> <p>Gross Receipts</p>
\$ _____ (Amount of gross receipts)	
<p>COPYRIGHT ROYALTY FEE Instructions: To compute the royalty fee you owe:</p> <ul style="list-style-type: none"> • Complete block 1, block 2, or block 3 • Use block 1 if the amount of gross receipts in space K is \$137,100 or less • Use block 2 if the amount of gross receipts in space K is more than \$137,100 but less than or equal to \$263,800 • Use block 3 if the amount of gross receipts in space K is more than \$263,800 but less than \$527,600 <p>See page (vi) of the general instructions for more information.</p>	<p style="font-size: 2em; font-weight: bold;">L</p> <p>Copyright Royalty Fee</p>
BLOCK 1: GROSS RECEIPTS OF \$137,100 OR LESS	
<p>Instructions: As a cable system with gross receipts of \$137,100 or less, the royalty fee that you must pay for this six-month accounting period is \$52.00</p>	
Line 1. Royalty fee for accounting period	\$ <u>52.00</u>
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	\$ _____
BLOCK 2: GROSS RECEIPTS OF \$263,800 OR LESS (but more than \$137,100)	
1. Base amount under statutory formula	\$ <u>263,800</u>
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	\$ _____
BLOCK 3: GROSS RECEIPTS OF MORE THAN \$263,800 (but less than \$527,600)	
1. Enter the amount of gross receipts from space K	\$ _____
2. Base amount under statutory formula	\$ <u>263,800</u>
3. Subtract line 2 from line 1	\$ _____
4. Multiply line 3 by .01	\$ _____
5. Royalty due on the first \$263,800 of gross receipts (under statutory formula)	\$ <u>1,319</u>
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	\$ _____
<p>IMPORTANT: Your remittance must be in the form of an <i>electronic payment</i> payable to <i>Register of Copyrights</i>. See page i of the general instructions for more information.</p>	

Name	LEGAL NAME OF OWNER OF CABLE SYSTEM:
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. <input style="width: 150px; height: 25px;" type="text"/></p> <p>2. Enter the total number of activated channels on which the cable system carried television broadcast stations and nonbroadcast services. <input style="width: 150px; height: 25px;" type="text"/></p>
N Individual to Be Contacted for Further Information	<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 <small>(Area code)</small></p> <p>Address <small>(Number, street, rural route, apartment, or suite number)</small></p> <p>..... <small>(City, town, state, zip)</small></p> <p>Email (optional) Fax (optional)</p>
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, <i>but only one</i>, of the boxes.) <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. <p>• 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)]</p> <p style="text-align: center;"> Handwritten signature:</p> <p style="text-align: center;">Typed or printed name:</p> <p style="text-align: center;">Title: <small>(Title of official position held in corporation or partnership)</small></p> <p style="text-align: center;">Date:</p>

Privacy Act Notice: Section 111 of title 17 of the United States Code authorizes the Copyright Office to collect the personally identifying information (PII) requested on this form in order to process your statement of account. PII is any personal information that can be used to identify or trace an individual, such as name, address and telephone numbers. By providing PII, you are agreeing to the routine use of it to establish and maintain a public record, which includes appearing in the Office's public indexes and in search reports prepared for the public. The effects of not providing the PII requested is that it may delay processing of your statement of account and its placement in the completed record of statements of account, and it may affect the legal sufficiency of the filing, a determination that would be made by a court of law.

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

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 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 dish owners?

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

Name	Name
Mailing address	Mailing address
.....
.....

P

Special Statement Concerning Gross Receipts Exclusions

INTEREST ASSESSMENT

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) of the 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)

* To view the interest rate chart click on www.copyright.gov/licensing/interest-rate.pdf. For further assistance please contact the Licensing Division at (202) 707-8150 or licensing@loc.gov.

**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, ID number, and accounting period as given in the original filing.

Owner

Address

.....

ID number

First community served

Accounting period

Q

Interest Assessment

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**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* \$527,600; 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 \$527,600 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.** A primary transmission is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.
- **Secondary transmissions.** A secondary transmission 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

- 1 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 the necessary information and that you are using the right form.
- 2 Fill out the statement of account form, giving all the required information about your cable system and about the television and radio stations carried by it. Print the information in black ink.
- 3 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.
- 4 Make an *electronic payment* (see note below) in the amount you have calculated in space L to cover the copyright royalty fee. See the *Federal Register*, August 10, 2006 (71 FR 45739) available at www.copyright.gov/fedreg/2006/71fr45739.html. The remittance should be payable to Register of Copyrights.
- 5 Send the completed statement of account and one legible copy of the statement of account to:

*Library of Congress
Copyright Office
Licensing Division
101 Independence Avenue SE
Washington, DC 20557-6400*

For courier deliveries, see www.copyright.gov/mail.html for updated information.

- 6 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 at www.copyright.gov/circs/circ74.

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 the signals of any U.S. television or radio station 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 six 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 \$527,600 or more).
- Each semiannual statement of account must be accompanied by the deposit of a royalty fee covering retransmissions during the preceding six months in the form of an electronic payment 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 of the United States, 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 re-

transmitted 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 six-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 \$137,100 or less: royalty fee of \$52;

2 Gross receipts of more than \$137,100 and less than \$527,600: royalty fee determined by a formula based on percentage of gross receipts;

3 Gross receipts of \$527,600 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. The royalty must be made by electronic payment, and the related statement of account must be filed by the appropriate deadline accompanied with a cover letter (see circulars 74a, 74b, and 74c). 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 *primary stream* of 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 primary stream's typical broadcast day.

The term network station also applies to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that is owned or operated by, or affiliated with, one or more of the television networks described above and offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more states.

- **Independent station:** A primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station. For purposes of determining a station's type-value this category includes all specialty, Canadian and Mexican stations.
- **Noncommercial educational station:** A primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station; which is owned and operated by a public agency or nonprofit private foundation, corporation or association; or owned and operated by a municipality and which transmits only noncommercial programs for education 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 50 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 FCC 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 FCC 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 that 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, Public Law 106-113, Public Law 108-447, and Public Law 111-175,

establishes a statutory license for certain secondary transmissions made by satellite carriers to satellite dish owners. Satellite carriers are subject to copyright liability for their use of copyrighted material when they make secondary “transmissions” (retransmissions of television broadcasts) 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 non-network 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 Extension and Reauthorization Act of 2004 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 provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing pursuant to Section 119.”
- 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 satellite 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 \$527,600, the method of calculating the royalty fee depends on the amount of gross receipts reported in space K.

Gross receipts of \$137,100 or less. If the figure you give in space K is \$137,100 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 \$52. Do not use blocks 2 and 3.

Gross receipts of more than \$137,100 but less than or equal to \$263,800. If the figure you give in space K is more than \$137,100 but less than or equal to \$263,800, 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 \$263,800 but less than \$527,600. If your gross receipts figure in space K is more than \$263,800 but less than \$527,600, you must use the formula set out in section 111(d)(2)(D) of the Copyright 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 can obtain the interest rate for the applicable accounting period(s) by calling the Licensing Division at (202) 707-8150, or by clicking on to www.copyright.gov/licensing/interest-rate.pdf.

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. The accrual period ends on the date that the remittance is received in the Copyright Office. Note: The Office shall not require, nor notify a cable system of, an interest charge of \$5.00 or less.

NEW TERMS

STELA amended section 111(f) to include new terms applicable to digital television signals and for other purposes. Please refer to these terms as you fill out the statement of account.

Primary stream:

The single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal. If there is no stream, then the primary stream is the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

Primary transmitter:

A 'primary transmitter' is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

Multicast stream:

A 'multicast stream' is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

Simulcast:

A 'simulcast' is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

Subscriber:

The term 'subscriber' means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

Subscribe:

The term 'subscribe' means to elect to become a subscriber.