

transmission made by a broadcast station licensed by the Federal Communications Commission” That provision was enacted nearly thirty years ago, at a time when all broadcast stations were analog and transmitted a single stream of programming on either a VHF or an UHF channel. It was not until 1997 that the FCC adopted rules governing transition of the broadcast television industry from analog to digital signals, and thereby authorized each individual broadcaster to transmit multiple streams of programming over various channels. *See In the Matter of Advanced Television Systems and Their Impact on Existing Television Broadcast Service*, 12 F.C.C. Rcd. 14,588 (Apr. 21, 1997).

Congress has never specifically addressed in Section 111 the issues arising from cable carriage of digital broadcast signals. By contrast, Congress recently amended Section 119, the satellite compulsory license, to cover satellite carrier retransmission of digital broadcast signals. Among other things, Section 103 of the Satellite Home Viewer Expansion and Reauthorization Act of 2004, P.L. 108-447, Title IX, § 103 (“SHVERA”), contains separate provisions concerning the royalty to be paid for the retransmission of digital broadcast signals by satellite carriers, and it affords copyright owners and satellite carriers the opportunity to negotiate royalty rates for digital broadcast signals separate from analog signals. *See id.* As the Copyright Office is aware, Copyright Owners, DirecTV and EchoStar have successfully negotiated rates for carriage of distant digital (as well as analog) signals for the 2005-10 period. Absent that negotiated agreement, a Copyright Arbitration Royalty Panel would have determined fair market value rates for those digital signals.

2. Prior to SHVERA, in a letter dated June 18, 2003, EchoStar Satellite Corporation (“EchoStar”) asked the Copyright Office for guidance on the treatment of distant digital network

signals under 17 U.S.C. § 119. On August 19, 2003 the Copyright Office responded to EchoStar, stating:

Because by its terms, Section 119 does not distinguish between analog or digital over-the-air television signals, it appears that the [Section 119] license applies to secondary transmissions of both, provided, of course, that all other terms and conditions of the license are satisfied.

That response was made without soliciting or obtaining comments from Copyright Owners or other interested parties. The Copyright Office's August 19, 2003, letter also did not purport to address the issue of whether cable operators could rely upon the Section 111 compulsory license to retransmit digital signals; nor did it provide any guidance on how royalty calculations under either Section 111 or Section 119 would be affected by the carriage of digital signals or how satellite carriers and cable systems might report the carriage of such signals.

3. Cable operators are increasingly retransmitting digital signals of broadcast stations. *See Carriage of Digital Television Broadcast Signals*, -- F.C.C. Rcd. ---, 2005 WL 425326, at ¶ 24 (Feb. 23, 2005) ("Second Digital Must Carry Order") (cable operators are carrying in excess of 500 digital broadcast stations). If cable operators do carry digital broadcast signals relying upon the Section 111 compulsory license (and perhaps upon the Copyright Office's August 19, 2003 letter), it is important that they properly report such carriage and pay the royalties that Section 111 requires. Based upon a review of statements of account filed with the Copyright Office by cable operators as well as other material, Copyright Owners are concerned that cable operators are not reporting and calculating their Section 111 royalties properly.

Copyright Owners therefore request that the Office address the recordkeeping and royalty calculation issues that necessarily arise in connection with the carriage of digital broadcast signals by cable operators -- assuming that the Office is of the view that Section 111 covers retransmissions of digital broadcast signals. The Eleventh Circuit and the D.C. Circuit have expressly acknowledged the Office's authority to provide reasonable interpretations of the cable statutory license under 17 U.S.C. § 702. *See Satellite Broadcasting and Communications Ass'n of Am. v. Oman*, 17 F.3d 344, 347 (11th Cir. 1994) ("*SBCA*") ("The Copyright Office is a federal agency with authority to promulgate rules concerning the meaning and application of section 111"); *Cablevision Sys. Dev. Co. v. Motion Picture Ass'n of Am., Inc.*, 836 F.2d 599, 608-09 (D.C. Cir.), *cert. denied*, 487 U.S. 1235 (1988) ("*Cablevision*"). *See also* 17 U.S.C. § 111(d)(1) (authorizing the Register of Copyrights to establish requirements for the filing of statements of account and royalty deposits, including information to be contained in the statements of account).

The specific rules that Copyright Owners seek are set forth in Appendix A and are discussed more fully below. Copyright Owners also request that the Office amend its Section 111 statements of account and instructions thereto as set forth in Appendix B and discussed below.

DISCUSSION

1. Converter Box Fees

Currently, cable subscribers are unable to receive digital (including HDTV) signals offered by their cable provider unless they obtain a special converter -- regardless of whether those signals are available as part of the lowest-priced basic service. *See* <http://www.ncta.com/images/HDTV%20kit-Technology-final2.pdf> (visited May 20, 2005) ("*Cable*

subscribers who receive HDTV programming do so by means of a special HDTV set-top box”) (Attachment 1). Cable operators typically charge their subscribers a monthly fee to use a converter necessary for reception of HDTV broadcast signals. For example, a cable operator in Lincoln, Nebraska advertises that subscribers can receive HDTV signals of local broadcast stations “free” provided that they pay, among other things, a \$7.65 monthly fee for an HDTV converter. See <http://www.timewarnercable.com/nebraska/products/hdtv.html> (visited May 20, 2005); <http://www.timewarnercable.com/nebraska/customer/lincolnrates.html> (visited May 20, 2005) (Attachment 2).

The Office has correctly ruled that any fees charged for converters necessary to receive broadcast signals must be included in the cable system’s “gross receipts” used to calculate its Section 111 royalty:

In either case, the subscriber must have a converter to receive, in usable form, the signals of all of the television stations that constitute the cable system’s “basic service of providing secondary transmissions of primary broadcast transmitters.” Fees paid to cable systems for converters, therefore, are clearly amounts paid for the system’s secondary transmission service and are includible in that system’s “gross receipts.”

Compulsory License for Cable Systems, 43 Fed. Reg. 27,827, 27,828 (June 27, 1978). See also 37 C.F.R. § 201.17(b)(1); Form SA 1-2, General Instructions, p. v; Form SA 3, General Instructions, p. vi. Fees for converters used to receive HDTV signals of local or distant broadcast stations plainly come within this ruling.

Despite the apparent clarity of the application of the “gross receipts” definition to HDTV converter fees, some cable operators may not be including HDTV converter fees in their calculation

of “gross receipts.” For example, the Lincoln, Nebraska cable operator referenced above lists its “HD Converter” fee (as well as its “basic converter” fee) in Block 2 of Space F of its 2004-1 statement of account (labeled as “Services Other Than Secondary Transmission Rates”) -- and not in Block 1 of Space E (labeled as “Secondary Transmission Service: Subscribers and Rates”). *See* Attachment 3. As the Office is aware, only fees identified in Space E are included in the cable operator’s calculation of “gross receipts” (and thus in the calculation of the cable operator’s Section 111 royalty). This would suggest that the Nebraska cable system (if it were carrying digital broadcast signals in 2004-1) may have been incorrectly reporting its revenues from the carriage of retransmitted broadcast signals.

Similarly, a system in York, Pennsylvania carried several digital broadcast signals in early 2004 as a part of a High-Definition programming package and charged subscribers a \$11.95 per month fee to rent an HDTV converter in order to receive such digital broadcast signals. *See* Attachment 4 (http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6515683386) (January 22, 2004 letter from NCTA to FCC attaching advertising materials from Suscom of York, PA). Nevertheless that system did not report the HDTV converter fee in Space E of its 2004-1 Statement of Account, implying that it did not include the revenues associated with that converter fee in its “gross receipts.” *See* Attachment 5 (2004-1 statement of account for that system).

Copyright Owners are not suggesting that all cable operators are failing to include HDTV converter fees in their “gross receipts.” For example, the 2004-1 Statement of Account for the cable system serving Montgomery County, Maryland does appear to include HDTV converter fees in its

calculation of “gross receipts.” *See* Attachment 6. The fact that some cable systems are including such HDTV converter fees in their “gross receipts” while others are not doing so underscores the need for the Office to clarify this issue to ensure consistency in the application of the relevant rules and equal treatment of cable operators.

Accordingly, Copyright Owners request the Copyright Office to clarify that, in accordance with Section 201.17(b) of the Office’s rules, a cable operator must include in its “gross receipts” any fees charged subscribers for converters used to receive HDTV or other digital broadcast signals -- notwithstanding that the operator may market its offering of such signals as “free.” Copyright Owners also recommend that the Office include in Space E of the cable statement of account form specific reference to “Digital and HDTV Converters” and explain that such line item refers to converters used to receive HDTV or other digital broadcast signals.

2. Second Set Fees

Like cable fees for converter boxes, cable fees for service to second television sets are included in a cable system’s “gross receipts” for the purposes of Section 111. *See Compulsory License for Cable Systems*, 43 Fed. Reg. 958, 959 (Jan. 5, 1978) (“The additional set fee is, we believe, clearly a payment for basic secondary transmission service . . .”); 37 C.F.R. § 201.17(b)(1); Form SA 1-2, General Instructions, p. v; Form SA 3, General Instructions, p. vi.

At least some cable systems charge additional fees for HDTV service to a second television set in the household. For example, a cable system in York, Pennsylvania, charges its customers \$6.95 per month for “Additional HDTV Terminals,” even though it does not charge customers for service to additional television sets receiving only an analog service. *See*

<http://www.suscom.com/home/sites/pricing.php?city=york>) (visited May 20, 2005) (Attachment 7). Nevertheless, it is unclear whether this system, and others like it, are including fees for service to additional sets that receive HDTV and other digital broadcast signals within their calculation of “gross receipts.”

Copyright Owners thus ask the Office to clarify that, in accordance with Section 201.17(b) of the Office’s rules, fees for service to additional digital television sets or “HDTV Terminals” must be included in a cable system’s “gross receipts.” Copyright Owners also recommend that the Office include in Space E of the cable statement of account form specific reference to “Digital and HDTV Additional Set Fees” and explain that such line item refers to fees charged for service to additional television sets receiving HDTV or other digital broadcast signals.

3. Digital Broadcast Buy-Throughs

Another issue generated by cable carriage of digital broadcast signals concerns the treatment of fees for tiers that must be purchased as a condition to receiving the digital tier that includes HDTV or other digital broadcast stations. *See Carriage of Digital Broadcast Signals*, 16 F.C.C. Rcd. 2598, at ¶ 124 (Jan. 23, 2001) (“First Digital Must Carry Report”) (describing circumstances in which cable operators may require buy-throughs as a condition to receiving digital broadcast signals). For example, the Lincoln, Nebraska system referenced above offers several digital broadcast signals in a package as a “free” service. *See* Attachment 2. However, in order to receive this “free” package, a subscriber must not only rent an HDTV converter for \$7.65 per month (as noted above); the subscriber must also purchase the system’s “digital tier,” which contains various digital non-broadcast services, for an additional \$6.95 per month. *See id.*

As the Copyright Office has correctly concluded:

[T]he regulations require reporting of the gross receipts from both tiers in the reverse kind of “tie-in” arrangement where subscriber receipt of a tier containing broadcast signals is tied to a required purchase of a tier containing only nonbroadcast signals. In this case it is clear that the tier with broadcast signals is not separately priced in the marketplace because consumers do not have a choice of buying the tier with broadcast signals alone for a single fee. By using [such a] “tie-in” arrangement rather than offering broadcast and nonbroadcast signals on a single tier for one price, or offering each on separate tiers totally independently, a cable system could easily manipulate downward its “gross receipts,” if the regulation did not require the total receipts from both tiers to be reported as gross receipts.

Compulsory License for Cable Systems: Reporting of Gross Receipts, 53 Fed. Reg. 2493, 2495 (Jan. 28, 1988); *see also* 37 C.F.R. § 201.17(b)(1); Form SA 1-2, General Instructions, p. v; Form SA 3, General Instructions, p. vi. This authority makes clear that cable operators must include in “gross receipts” any fees for tiers that must be purchased as a condition to receiving HDTV or other digital broadcast signals. But it is not clear that cable operators are doing so.

Accordingly, Copyright Owners request that the Copyright Office clarify that, in accordance with Section 201.17(b) of the Office’s rules, a cable operator must include in its “gross receipts” any revenues from the tiers of service consumers must purchase in order to receive HDTV or other digital broadcast signals -- notwithstanding that the operator may market its offering of such digital signals as “free.” Copyright Owners also recommend that the Office include in Space E of the cable statement of account form specific reference to “Digital and HDTV Tiers” and explain that such reference includes all service tiers that a consumer must purchase in order to receive HDTV or other digital broadcast signals.

4. Dual Carriage Of Analog and Digital Signals

During the current transition to digital broadcasting, several broadcasters transmit signals in both analog and digital format to the public at the same time. For example, WRC in Washington, D.C., broadcasts both an analog signal (Channel 4, WRC-TV) and digital signal (Channel 48, WRC-DT). Broadcasters may continue to provide both an analog and a digital service until at least December 31, 2006. *See* P.L. 105-33, 111 Stat. 251 (specifying conditions under which the transition to digital broadcasting would be completed by the end of 2006). While broadcasters are required to simulcast a certain amount of programming on the analog and digital signals, some or much of the programming on these signals may be different. *See* First Digital Must Carry Report, 15 F.C.C. Rcd. 2598 at ¶ 68; 47 C.F.R. § 73.624(f). Indeed, during the most recent Summer Olympics, WRC carried a standard definition broadcast on its analog, while providing different, HDTV programming on its digital channel. *See* <http://www.washingtonpost.com/wp-dyn/articles/A45609-2004Aug30.html> (visited May 20, 2005).

The cable industry successfully opposed efforts by broadcasters seeking *mandatory* carriage of both analog and digital signals of local broadcast stations (*i.e.*, “dual must-carry”). *See* Second Digital Must Carry Report, -- F.C.C. Rcd. ----, 2005 WL 425326, at ¶ 27 (rejecting “dual carriage” of analog and digital signals). Some cable systems, however, have agreed to *voluntary* carriage of both analog and digital broadcast signals from the same broadcaster. For example, the cable system serving Montgomery County, Maryland carries both the analog and digital signals of Washington broadcasters WTTG, WJLA, WRC, WUSA, and WETA.

Certainly, some cable systems are separately and properly reporting carriage of digital and analog broadcast signals. *See, e.g.*, Attachment 6 (2004-1 Statement of Account for cable system serving Montgomery County, Maryland separately reporting carriage of analog and digital broadcast signals). It is, however, unclear whether all cable systems are doing so or are doing so in a consistent and uniform manner. The York, Pennsylvania cable system discussed above did not separately report carriage of analog and digital broadcast signals on its 2004-1 Statement of Account, even though it advertised its carriage of digital broadcast signals. *Compare* Attachment 5 with Attachment 6. The lack of uniformity in reporting the carriage of both analog and digital broadcast signals suggests that the Copyright Office should act to clarify its rules in fairness to cable operators and copyright owners alike.

The Office should make clear that, if a cable operator chooses to carry a broadcaster's analog and digital signals, that cable operator should identify those signals separately in Space G on its statement of account (*e.g.*, as WRC-TV on Channel 4 and WRC-DT on channel 48). *See* 37 C.F.R. § 201.17(e)(9) (requiring identification of call letters and the channel of each primary transmitter). Among other things, such separate designation affords notice that the cable operator is carrying digital signals (and may thus be charging subscribers additional fees that should be included in the gross receipts calculation). The separate designation also affords notice to copyright owners whose works may be included in a digital programming stream, but not the analog stream (and vice versa).

In addition, cable operators may choose to carry the analog and digital signals of a distant, as well as a local, broadcast station. As with local signals, carriage of both analog and digital signals should be reported separately on a cable system's statement of account. Such reporting is even more

important in the context of distant signal carriage because such carriage would generate an additional royalty obligation. In the case of such carriage, a separate DSE value must be assigned to the digital signal. If the programming on both the analog and digital signals is identical, the DSE values would, of course, be the same. If, however, the programming on the two stations is different -- *i.e.*, the digital signal does not carry network programming -- the DES values may be different as well and should be computed separately in accordance with the provisions of Section 111(f).

5. Digital Multicasting

Another advantage presented by the advent of digital broadcasting is the ability of broadcasters to transmit multiple channels of digital programming within the amount of bandwidth allotted to them by the FCC (“multicasting”). The amount of frequency spectrum used by digital broadcasts is much smaller than analog counterparts, thus allowing broadcasters to do more with less. *See, e.g.*, Congressional Budget Office, “Completing the Transition to Digital Broadcast” (Sept. 1999) (*available at* <http://www.cbo.gov/showdoc.cfm?index=1544&sequence=1>) (visited May 20, 2005) (Attachment 8). Indeed, a single broadcaster may offer as many as six standard-definition programming streams in the digital broadcast bandwidth that is allotted to it. *See* Paul Davidson, “Local Stations Multicast Multishows,” USA Today, Jan. 29, 2004 (*available at* http://www.usatoday.com/money/media/2004-01-28-multicast_x.htm) (visited May 20, 2005) (Attachment 9).

For example, Station WCTV in Tallahassee, Florida, broadcasts CBS and other programming in analog on channel 6 and in digital on channel 6.1. It also broadcasts UPN and other programming in digital on channel 6.2. *See* <http://titantvguide.titantv.com/apg/ttv.aspx?siteid=52285> (visited May

20, 2005) (Attachment 10). WEYI in Flint-Saginaw Michigan has a similar arrangement. It broadcasts NBC and other programming in analog over channel 25 and in digital over channel 25.2, while broadcasting WB and other programming in digital over channel 25.1. *See* <http://weyi.titantv.com/apg/ttv.aspx?siteid=49880> (visited May 20, 2005) (Attachment 11). *See generally* A. Romano, *Stations Tap A Digital Revenue Stream*, *Broadcasting & Cable*, Apr. 18, 2005, at 16 (Attachment 12).

Likewise, Station WRAL in Raleigh, North Carolina, transmits its analog signal (WRAL-TV) on channel 5. It transmits over channel 5.1 its digital signal, WRAL-DT, which simulcasts (in some cases in HDTV) certain of the programming on channel 5. It also transmits a 24-hour news channel (WRAL-NC) over channel 5.2. *See id.* And, it transmits locally-produced programming over channels 5.3 (WRAL-DT3) and 5.4 (WRAL-DT4). *See* <http://titantvguide.titantv.com/apg/ttv.aspx?siteid=51073> (visited May 20, 2005) (Attachment 13). In the future, of course, WRAL, as well as other broadcasters, could transmit over these separate digital channels a wide variety of programming, with each channel containing programming that is separate and distinct from the programming on the other.

As of January, 2004, there were 213 broadcasters across the United States that, like WRAL, were engaged in multicasting. *See* Attachment 9. The cable industry has vigorously opposed any rule requiring operators to carry all of the streams offered by a broadcaster that multicasts. The FCC has sided with the cable industry on this issue, concluding that where a “digital broadcaster elects to divide its digital spectrum into several separate, independent and unrelated programming streams, only one of these streams” must be carried by a cable operator. *See* Second Digital Must Carry

Report, 2005 WL 425326, at ¶¶ 29, 44. Despite the lack of mandatory carriage, cable systems do voluntarily agree to carry multiple digital channels from broadcasters. *See id.* at ¶ 38.

As with dual carriage of digital and analog systems, the Office should make it clear that cable systems carrying multicast signals must identify those signals separately in Space G on its statement of account form. For example, a cable operator that chose to carry all of the digital channels transmitted by WRAL should state in Space G of its statement of account that it carried WRAL-DT on channel 5.1; WRAL-NC on channel 5.2; WRAL-DT3 on channel 5.3; and WRAL-DT4 on channel 5.4. *See, e.g.*, Attachment 6 (2004-1 Statement of Account for Montgomery County, Maryland cable system separately reporting carriage of WETA channels 26.1, 26.2, 26.3 and 26.4). Such separate reporting is especially necessary in the case of carriage of multiple digital channels, where the copyright owners of the programming on such separate channels may be wholly different from the copyright owners of the programming on the primary video stream.

The Office should also require separate calculation of DSE values and royalty payments for carriage of multiple streams of *distant* digital signals. If, for example, a cable operator chose to import two streams from a particular multicasting broadcaster -- one of which contained network programming and the other of which did not -- that operator should be considered as importing 1.25 DSEs. Of course, if one stream contained only material that was part of the copyrighted programming on the other stream, within the meaning of *WGN v. United Video*, 693 F.2d 622 (7th Cir. 1982), the cable operator would report only a single DSE (or .25 DSE if the stream qualified as a “network station”). *See id.* at 626 (additional material broadcast with a television program that “is intended to be viewed with and as an integral component of that program” is covered by the

copyright on the television program); *see also* Second Digital Must Carry Report at ¶ 44 n. 158 (currently, for purposes of the FCC must-carry rules, cable operators are not required to carry any material from a second stream unless it satisfies the *United Video* test.

CONCLUSION

For the reasons discussed above, Copyright Owners request the Copyright Office to amend its rules as set forth in Appendix A. Copyright Owners also request that the Office amend its cable operator statement of account forms consistent with those amendments, as discussed above, and as shown in Appendix B.

Respectfully submitted,

Robert Alan Garrett
Christopher Winters
ARNOLD & PORTER LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004
(202) 942-5000 (phone)
(202) 942-5999 (facsimile)
Counsel to the Joint Sports Claimants

Gregory O. Olaniran
STINSON MORRISON HECKER
1150 18th Street, NW, Suite 800
Washington, DC 20036
(202) 785-9100 (phone)
(202) 785-9163 (facsimile)
*Counsel to the Motion Picture Association of
America*

Of Counsel:

Thomas J. Ostertag
Senior Vice President & General Counsel
OFFICE OF THE COMMISSIONER OF BASEBALL
245 Park Avenue
New York, NY 10167

May 23, 2005

APPENDIX A

PROPOSED CHANGES TO COPYRIGHT OFFICE REGULATIONS

1. Amend the first sentence of 37 C.F.R. § 201.17(b)(1) to read as follows:

(1) Gross receipts for the “basic service of providing secondary transmissions of primary broadcast transmitters” include the full amount of monthly (or other periodic) service fees for any and all services or tiers which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees, including any service fees, converter fees, or additional set fees that subscribers pay to receive digital broadcast signals.

2. Amend 37 C.F.R. § 201.17(e)(9)(i)-(iv) as follows:

(9) The designation “Primary Transmitters: Television”, followed by an identification of all primary television transmitters whose analog or digital signals were carried by the cable system during the period covered by the Statement of Account, other than primary transmitters of programs carried by the cable system exclusively pursuant to rules, regulations, or authorizations of the FCC in effect on October 19, 1976, permitting the substitution of signals under certain circumstances, and required to be specially identified by paragraph (e)(11) of this section, together with the information listed below:

(i) The station call sign of the primary transmitter, including the designation “TV” for analog signals and “DT” (followed by the subchannel number) for digital signals.

(ii) The name of the community to which the primary transmitter is licensed by the FCC (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(iii) The number of the channel or digital sub-channel upon which that primary transmitter broadcasts in the community to which that primary transmitter is licensed by the FCC (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(iv) A designation as to whether that primary transmitter is a “network station,” an “independent station,” or a “noncommercial educational station” (in the case of stations engaged in digital multicasting, that designation shall be made for each digital stream that the cable system carried).

APPENDIX B

PROPOSED CHANGES TO STATEMENT OF ACCOUNT FORMS

Space E (Forms SA 1-2 and SA-3)

1. Amend the Block E categories to refer to HDTV/Digital and Analog Converters separately.
2. Add the following after the second sentence of the penultimate paragraph (“Block 1”) of the instructions:

. . . Fees for converters used to receive HDTV or other digital broadcast signals and fees for converters used to receive analog broadcast signals should be listed separately. Likewise fees for converters used by residential subscribers should be listed separately from fees for converters used by non-residential subscribers.

3. Amend the text in the last paragraph (“Block”) of the instructions to read as follows:

“Block 2: If your cable system has rate categories for secondary transmission service in addition to those printed in block 1, 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. For example, if HDTV or other digital broadcast signals are offered as part of a separate tier that does not include analog broadcast signals, list that separate tier in Block 2 as “HDTV/Digital Tier - First Set.” If subscribers must pay a separate fee to receive HDTV or other digital broadcast signals on additional sets, the fees for that additional set service should be listed in Block 2 as “HDTV/Digital Tier - Additional Set(s).” If subscribers must purchase a particular tier of service as a condition to receiving analog or digital broadcast signals, the fees for that tier should be listed in Block 2 as a “Buy-Through Tier.”

Space G (Forms SA 1-2 and SA-3)

1. Amend the text following “Columns 1” “2” and “3” to pick up the changes on Attachment A.

Instructions for DSE Schedule (Form SA 3)

1. Add the following at the end of “Step 1” in the “Basic Formula” instruction:

Note also that in the case of stations engaged in digital multicasting, each digital stream shall have a separate DSE value, provided, however, if one stream consisted solely of material that was part of the programming on another stream, these two streams have a single DSE value.