

ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559

FINAL REGULATION

COMPULSORY LICENSE FOR CABLE SYSTEMS

The following excerpt is taken from Volume 49, Number 162 of the Federal Register for Monday, August 20, 1984 (pp. 33016-33017)

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 83-3B]

Compulsory License for Cable Systems

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulation.

SUMMARY: The Copyright Office of the Library of Congress is issuing a final regulation, amending 37 CFR 201.17. These regulations implement portions of section 111 of the Copyright Act of 1976, title 17 of the United States Code. That section prescribes conditions under which cable systems may obtain a compulsory license to retransmit copyrighted works by filing periodic Statements of Account and by paying copyright royalties. The purpose of this final regulation is to extend from 60 to 120 days the period following the normal filing deadlines during which the Copyright Office will refund overpayments of royalties at the request of cable systems, with respect to the 1983 Supplemental DSE Schedules and the Form CS/SA-3 for the accounting period ending June 30, 1984.

EFFECTIVE DATE: September 19, 1984.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287-8380.

SUPPLEMENTARY INFORMATION: Section

111(c) of the Copyright Act of 1976, title 17 of the United States Code, establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to various conditions, including the requirement that cable systems file Statements of Account and deposit statutory royalties with the Copyright Office.

The Copyright Office is in the process of implementing a rate adjustment established by the Copyright Royalty Tribunal in accordance with 17 U.S.C. 801(b)(2) (B) and (C). The Office recently published interim [49 FR 14944; April 16, 1984] and final regulations [49 FR 26722; June 29, 1984] notifying cable systems of revised forms and giving guidance regarding payment of royalties under the adjusted rates.

The National Cable Television Association (NCTA) recently petitioned the Office, requesting a time extension from the late August deadlines until September 28, 1984 for the filing of the 1983 Supplemental DSE Schedules and Form CS/SA-3 for the semi-annual accounting period ending June 30, 1984. The request was limited to filings by multiple system operators that have three or more cable systems that are located in a major or smaller television market.

In justification of the request, NCTA asserts that the forms require substantial analysis and paperwork, that systems must conduct an extensive investigation into the history of their signal carriage, and on occasion, the signal carriage of other existing or former systems in the same community,

in order to determine the basis for distant signal carriage under the Copyright Act and the rules of the Federal Communications Commission.

Although the forms for the first time require cable systems to state the basis of their distant signal carriage, it seems reasonable to believe that most systems are aware of the basis of carriage at the time carriage is made. Moreover, Copyright Office regulations, while not encouraging late filings, provide no penalty for them,¹ and the Office will accept amended filings at any time, except that refunds of overpayments at the request of cable systems are subject to a 60-day time limitation.

The Office has concluded that there is insufficient justification to amend the regulations on an emergency basis without an opportunity for public comment, and therefore has denied NCTA's request, as presented.

On the other hand, the Office has also concluded that the concerns expressed by the NCTA justify a technical amendment to a "housekeeping" regulation governing the period during which the Office will refund overpayments of royalties at the request of cable systems. Accordingly, the period is extended from 60 days to 120 days. This extension should allow cable systems ample time to review the forms after timely filing in late August 1984 and, if corrections are appropriate, the cable systems will be able to amend the

¹ The Copyright Act may provide a penalty, but the Copyright Office defers to a court of competent jurisdiction for assessment of the penalty, if any.

forms and receive refunds, as due, up to the period of 120 days following the normal filing deadlines.

This amendment applies only to the Form CS/SA-3 for the accounting period ending June 30, 1984, and to the 1983 Supplemental DSE Schedules.

The amendment will benefit all cable systems affected by the 1982 rate adjustment, and it will not harm copyright owners, since any loss of interest income falls on the cable systems who make incorrect filings. It should be understood that the present 60 days period was established for the administrative convenience of the Copyright Office in the interest of facilitating transfers of royalties to the Copyright Royalty Tribunal. The deadline was not established for the benefit of copyright owners. Since the technical change is minor, affects the

Office itself primarily, and is beneficial to the public, the amendment is issued in final form without public comment. Accordingly, the Office is issuing in final form a technical amendment to 37 CFR 201.17(j).

List of Subjects in 37 CFR Part 201

Cable television, Copyright.

Final Regulations

PART 201 [AMENDED]

In consideration of the foregoing, Part 201 of 37 CFR Chapter II is amended in the manner set forth below.

Paragraph (j) of § 201.17 is amended by adding the following paragraph (j)(5):

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

*(j) * * *
* * * * *

(5) In the case of Forms CS/SA-3 for the accounting period ending June 30, 1984 and of the Supplemental DSE Schedules for 1983, a period of 120 days shall apply in lieu of the 60 day period specified by this paragraph (j)(3)(i).

[17 U.S.C. 111; 702]

Dated: August 9, 1984.

David Ladd,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 84-21981 Filed 8-17-84; 8:45 am]

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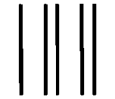
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