



ANNOUNCEMENT

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

FINAL REGULATIONS

STATEMENTS OF ACCOUNT AND FILING REQUIREMENTS FOR SATELLITE CARRIER STATUTORY LICENSE

The following excerpt is taken from Volume 54, Number 126 of the Federal Register for Monday, July 3, 1989 (pp. 27873-27879)

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

(Docket No. RM 88-6)

Copyright Office, Library of Congress
Statements of Account and Filing
Requirements for Satellite Carrier
Statutory License

AGENCY: Copyright Office, Library of
Congress.

ACTION: Final regulations.

SUMMARY: The "Satellite Home Viewer Act of 1988," in a new section 119 of the Copyright Act, title 17 U.S. Code, creates a statutory license for certain secondary transmissions made by satellite carriers to satellite home dish owners for private viewing. The new satellite carrier statutory license requires the filing of statements of account by those parties availing themselves of the license, as well as the payment of royalty fees. The Copyright Office, after receiving comments from interested parties regarding proposed filing requirements for the satellite carrier statutory license, now issues final regulations.

EFFECTIVE DATE: July 3, 1989.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20540. Telephone: (202) 707-6380.

SUPPLEMENTARY INFORMATION:

1. Background

The Satellite Home Viewer Act of 1988, Pub. L. 100-667, amended the Copyright Act, title 17 of the United

States Code, by creating a new statutory license for certain secondary transmissions made by satellite carriers to satellite home dish owners. As of January 1, 1989, satellite carriers are permitted, pursuant to the new section 119 license, to make secondary transmissions of "superstation" and network station signals to certain satellite home dish owners for private home viewing upon payment of a statutory royalty fee and satisfaction of certain other conditions. The royalty fee provisions of section 119 will end in four years, and will be replaced by privately negotiated licenses or an arbitrated fee on or before December 31, 1992. The entire Satellite Home Viewer Act itself terminates on December 31, 1994.

On February 28, 1989, the Copyright Office published proposed regulations regarding statements of account and filing requirements for the satellite carrier statutory license (54 FR 8350). At that time the Office invited interested parties to comment on the proposed regulations. Interested parties were also welcome to comment on the terms of section 119 itself, as it took effect January 1, 1989. Comments were invited through March 30, 1989. The Copyright Office received seven comments, including three from representatives of satellite carriers, three from representatives of program suppliers/copyright owners, and one from the Public Broadcasting Service ("PBS"). One additional set of reply comments was received after the March deadline from representatives of Program Suppliers.

2. Statement of Account Filing Deadlines

The Copyright Office proposed that satellite carriers availing themselves of the statutory licensing system under

section 119 must submit royalty fees and statement of account forms within one month after the closing date of the appropriate accounting period. These accounting periods run from January 1 to June 30, and from July 1 to December 31 of each year. Therefore, filings would be due on January 30 and July 30 of each year for the preceding six month period.

Of the seven parties commenting in this proceeding, one satellite carrier, United Video, Inc. ("United Video"), objected to the proposed filing time frame, saying the 30 day requirement was too stringent. Instead, United Video suggested a filing period equal to or greater than the 60 day period which applies to cable operators under the cable television compulsory license, 17 U.S.C. 111.

Representatives of Professional Sports Leagues, however, supported the 30 day filing period, suggesting in addition that filings not made within the thirty day period be subject to a late payment fee.

Program Suppliers, representing copyright owners, and backed in general by the American Society of Composers, Authors and Publishers ("ASCAP"), expressed general support for the body of regulations proposed by the Copyright Office to implement section 119.

The Copyright Office considers the 30 day filing requirement for satellite carrier statements of account to be reasonable. Care has been taken to limit the amount of information satellite carriers are required to submit with the statement of account forms. These forms are much less complex than those that cable television operators file semiannually under section 111's cable compulsory license. The calculations used to compute the satellite carriers' royalty fees are uncomplicated. For administrative reasons, the Office prefers to establish a filing deadline for

satellite carrier statements of account that differs from the deadline for cable statements of account. For these reasons, the final regulations adopt the requirement that royalty fees shall be submitted by satellite carriers along with the appropriate statement of account forms within one month after the closing date of the relevant accounting period.

The Office declines at this time to address the issue of levying penalty fees upon satellite carriers that make late filings, except that underpayments and late payments will be assessed interest charges, as discussed later.

3. Refund Request Filing Deadline

In its proposed regulations for implementing section 119, the Copyright Office described conditions under which a request for a refund of royalty fees may be considered. The Office proposed that any such request must be received in the Copyright Office before the expiration of 30 days from the last day of the applicable statement of account filing period.

Representatives of two satellite carriers, United Video and Southern Satellite Systems ("Southern") suggested this is too brief a time allowance. Southern reasoned that the 60 day refund period afforded to cable operators under section 111's refund request policy should be mirrored in section 119's refund request regulation. United Video made a similar argument but asked for a one year period for filing refund requests and corrections on the basis that final distribution of royalty fees to copyright owners by the Copyright Royalty Tribunal does not usually occur "for several years after the Statements of Account are filed."

The Copyright Office finds these arguments unpersuasive. The fact that distribution of royalty fees to copyright claimants may not occur for quite some time is not determinative. A satellite carrier that files its statement of account form promptly will be able to detect whether to request a refund by an immediate, timely review of its copy of the filing. In addition, as the Office stated in the proposed regulations, "[a] request for a refund is not necessary where the Licensing Division, during its examination of a Statement of Account or related document, discovers an error that has resulted in a royalty overpayment. In this case, the Licensing Division will forward the royalty refund to the satellite carrier owner named in the Statement of Account without regard to the (30 day) time limitations . . . 54 FR 8350, 8354 (February 28, 1989).

The modest information required by the satellite carrier statement of account form and the straight-forward method of calculating the royalties should mean that refund requests are infrequent. Satellite carriers should make fewer

errors compared to cable systems and the review of the statements of account should take less time. The Office would compare the satellite carrier filing requirements to those relating to the jukebox compulsory license, for which a 30 day refund period has been found reasonable.

For these reasons, the Copyright Office adopts the proposed regulation which requires requests for refunds to be received in the Office within 30 days from the last day of the applicable statement of account filing period.

4. Assessment of Interest on Late Payments, Underpayments, or Refunds

The proposed regulations contained no reference to assessment of interest on late royalty payments or underpayments. However, one commentator, the Program Suppliers, recommended that the Office address the issue, suggesting not only that interest be assessed on late payments, but also that the Office pay interest on any amounts refunded to satellite carriers properly and justifiably requesting refunds. The Copyright Office agrees that the issue of interest in relation to section 119 payments should be addressed.

The Copyright Office has decided that it should adopt an interest rule relating to section 119 royalty underpayments and late payments. Although the Copyright Act is silent on the question of interest in the context of underpayments, the Office believes its general rulemaking authority, when read in the light of the decision in *Cablevision Systems Development Corp. v. Motion Picture Association of America*, 836 F.2d 599, 610 (D.C. Cir.), cert. denied, ___ U.S. ___ (1988), provides the necessary authority for the Office to consider and adopt an interest rule for the satellite carrier statutory license. The Copyright Act, 17 U.S.C. 702, provides that "[t]he Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title." It is apparent that the operation of the statutory license and the collection of royalty funds is part of the functions and duties of the Register.

The goal of the statutory license is to guarantee that copyright owners receive full compensation for use of their works within the scheme of the license, while at the same time allowing private home viewers access to retransmitted signals they receive from satellite carriers that satisfy the terms of the license. When royalty payments are not made on time in accordance with the terms of the license, the goal of full compensation is frustrated and the copyright owners suffer from the present value loss of

funds. The Copyright Office therefore concludes that it is consistent with the intention of Congress to impose a rule requiring interest payments on underpaid royalties pursuant to the satellite carrier statutory license.

As for the applicable rate of interest to be assessed on underpayments or late payments, the Office chooses a rate which most closely approximates the interest earned on royalty payments made within the accounting period filing dates. As a part of its standard practice, the Copyright Office will be making deposits of recently received royalty funds with the U.S. Treasury on the first business day after the close of an accounting filing period. The interest rate paid on that deposit is readily obtainable from the U.S. Treasury within a day or so of the deposit. The Office feels that making the Treasury rate applicable to all underpayments which resulted from satellite carrier retransmission to private dish owners during that accounting period most closely equals the amount of interest the underpaid royalties would have earned had they been paid in accordance with the accounting period filing deadlines. The one drawback of adopting such an interest rate is that it is not a fixed, predetermined rate. However, the Office concludes that this drawback is mitigated by the relative speed and certainty with which the Treasury interest rate is available to the Office and the public. Therefore, the interest rate applicable under section 119 shall be the interest rate paid by the Treasury on the royalty funds invested by the Copyright Office on the first business day after the close of the filing deadline for the accounting period with respect to which the underpayment occurs. The interest will begin to accrue starting on the first day after the close of the relevant accounting period filing deadline.

While the Copyright Office will be requiring interest on late payments and on underpaid royalties, it has concluded that it will not pay interest on refunds made to satellite carriers. Payment of interest on refunds made under section 119 is administratively impracticable. The Office is not obliged by statute to include an interest charge with refund payments. Satellite carriers can avoid making overpayments by careful review of statements of account before filing the statements. The Office concludes that the copyright owners, which will bear the administrative costs of the refund procedure, should not be required to bear the costs of interest assessment procedures as well. Satellite carriers submitting royalty payments in an untimely fashion must include the proper interest charge with each payment.

Satellite carriers must perform their own interest charge calculations and may obtain the proper interest rate for the applicable accounting period(s) by contacting the Licensing Division, United States Copyright Office, 101 Independence Avenue, SE., Washington, DC 20540, Telephone (202) 707-8150. Interest calculated in accordance with these regulations shall be compounded annually. The accrual period for a particular royalty payment being submitted by a satellite carrier in which interest is due shall end on the date appearing on the certified check, cashier's check, or money order submitted, provided that the payment is received by the Copyright Office within five business days of that date. If the payment is not received within five business days, then the accrual period shall end on the date of actual receipt by the Copyright Office.

5. Name and Address of Cable Systems Acting as Distributors

Program Suppliers suggested additional reporting requirements be added to satellite carriers' statement of account forms, and cable television compulsory licensing statements of account as well. In particular, they suggest that satellite carriers be required to submit with their statement of account forms the names and addresses of cable television systems that also serve as "distributors" as defined in section 119(d)(1). The information could be used to verify that cable systems correctly excluded revenues from "private home viewing" as defined in section 119(d)(5), from the subscriber and the gross receipts calculations used for reporting and payment purposes under section 111.

The Copyright Office acknowledges that copyright owners and cable television systems may want such information made available to them in order to verify that cable systems that also function as section 119 "distributors" have reported correctly. The Office concludes that the best place for verification of the correct allocation of royalty fee payments under sections 111 and 119 would be on the cable television statement of account forms alone. With respect to the satellite carrier form, the suggested listing is rejected as a burdensome reporting requirement for satellite carrier owners. The Copyright Office will consider the best way to amend the cable television statement of account forms to facilitate proper allocation of royalty payments under sections 111 and 119.

6. Computation of Subscriber Numbers for Statement of Account Filings

This issue received the greatest attention from commentators. Initially Program Suppliers and copyright owners agreed with the system proposed by the

Copyright Office, and satellite carriers did not.

The proposed regulation would have directed that royalty fees be calculated on a monthly basis such that any subscribers receiving a network station or superstation signal from a satellite carrier for *any period* of each month must be included in the monthly calculation for that signal. This approach was fully supported by the Professional Sports Leagues, and backed in a general way by Program Suppliers and ASCAP.

Netlink, Southern and United Video all objected to the proposed method of calculation. Southern called the method "unreasonable," and suggested instead calculating the royalty fee by using the average number of subscribers receiving each signal each month. United Video termed the proposed method of calculation "inconsistent with the intent of the * * * Act," and said the proposed method would result in "unnecessary, expensive and difficult recordkeeping by the carriers." United Video recommended using subscriber numbers calculated at the end of each month, since business records and subscriber information are maintained on a monthly rather than daily basis. Netlink called the proposed method of fee calculation inefficient, unfair, and "inconsistent with the intent of the Act." It proposed using the average number of subscribers per month, saying this would be easier for carriers to calculate, and would be "more representative of the actual use of the signal." In the alternative, Netlink suggested using the number of subscribers as determined on the last day of each month.

On April 25, 1988, the Copyright Office received Program Suppliers' reply comments to the original set of comments. The Program Suppliers made specific comments about calculation of the number of subscribers each month for royalty fee purposes. One method which had been suggested, that of using the average number of subscribers per month, was not appealing to Program Suppliers, who commented there was no wording in the Act itself to suggest averaging monthly subscriber numbers. They also commented that because various methodologies could be used to average subscribers, there was a distinct possibility of future disputes about royalty payments.

Program Suppliers then recommended that the Copyright Office adopt a regulation which designates a specific date each month as the date on which to take a subscriber count. The example they used was the last day of the month.

The Copyright Office notes that with the addition of the Program Suppliers latest comments, the parties that addressed the issue of the method of counting subscribers each month are in

agreement, except for the Professional Sports Leagues.

The Copyright Office has carefully reviewed the comments and suggestions regarding the method of calculating royalty fee payments under the Satellite Home Viewer Act of 1988, and has reviewed the legislative history of the Act and the language of the Act itself. The goal of section 119 is to guarantee that copyright owners receive full compensation for the use of their works while allowing access to retransmitted network station and superstation signals for private home dish subscribers. An additional goal is establishment of royalty fee rates set by voluntary negotiation as instituted by section 119(c)(2). When satellite carriers and copyright owners agree on a rate to be paid under section 119(c)(2), they may use whatever method of calculation they can agree to.

Satellite carriers and major representatives of copyright owners have basically agreed in their comments on terms by which to calculate royalty fees initially, that is, to set a specific point in time within the month from which to count the number of subscribers that month. The Office at this time sets the last day of the month as the date on which the subscriber count must be based for royalty fee calculations. However, the Office will not hesitate to revisit this question should any party come forward with specific examples of unfairness or manipulation resulting from using subscriber numbers taken by satellite carriers on the last day of each month for use in calculating semiannual royalty fee payments.

7. Status of Public Broadcasting Service Under Section 119

PBS submitted comments devoted entirely to the question of the status of PBS as a network station or a superstation under the Act. No other commentator discussed this topic. This proved to be a thorny issue, as it is difficult to reconcile the language in the text of the statute itself with language contained in part of the legislative history. More specifically, the House Energy and Commerce Committee's report contained one specific reference to PBS as a "network station."¹ On the authority of that one specific reference to PBS as a network station, the Copyright Office initially concluded that PBS should be treated as a network. 54 FR 8350, 8352.

However, PBS demonstrated in its comments that according to the definitions of "network station" and

¹ * * * the new statutory license for retransmission of network stations applies, at the present time, exclusively to those stations owned by or affiliated with the three major commercial networks (ABC, CBS, and NBC) and the stations associated with the Public Broadcasting Service." 134 Cong. Rec. 10428, 100th Cong., 2d Sess. (October 19 1988).

"superstation" in the Act, and according to language found throughout the House Judiciary Committee report and hearings on the Act, references to network stations meant the three commercial network stations only. PBS argued that "as a legal matter, it is clear that PBS stations are 'superstations' and not 'network stations' under the Act." The Copyright Office, after conducting a thorough review of the Act and its history, agrees with PBS on this point.

Having argued that PBS stations are legally superstations under the Act, PBS next commented that it nevertheless wants the same treatment for PBS stations as network stations receive under the Act. That is, PBS contends that retransmission of PBS member stations under section 119 should be confined to homes in "unserved areas," as defined in the Act. PBS also contends that the three cent royalty rate applies for retransmission of PBS stations, rather than the twelve cent rate for retransmission of superstations.

The Copyright Office concludes that there is a need to clarify the status of PBS stations under the Act, and the Office recommends that Congress should legislate at an appropriate time. Until there is Congressional clarification regarding the treatment of PBS in the Act, PBS is advised to take the following action. To be treated as the networks are treated, PBS should follow the same filing requirements that networks must follow. According to section 119(a)(2)(C), networks must place on file with the Copyright Office a document identifying the name and address of the person at the network to whom satellite carriers must send notice of retransmission. The network notice should contain the name of the network, the contact person, a full mailing address and phone number. The notice should be sent to Walter Sampson, Chief, Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557, or, if hand delivered, Licensing Division, Madison Building, Room LM-458, 101 Independence Avenue, SE, Washington, DC 20557 for placement in the public file. Thereafter, satellite carriers making secondary transmissions of PBS stations should file subscriber lists with PBS in the manner set forth in section 119(a)(2)(C).

Until Congress clarifies the status of PBS in the Act, the Copyright Office will accept filings from satellite carriers using either the three cent royalty rate or the twelve cent royalty rate as applied to secondary transmissions of PBS stations. The Office recommends to Congress that the definition of "network station" in section 119(d)(2) be changed to: "The term 'network station' means a television broadcast station that is a member station of the Public Broadcasting Service, or 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 that station's typical broadcast day."

Regulatory Flexibility Act Statement

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (Title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since the Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.³

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that this regulation will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Satellite carrier license.

Final Regulations

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

PART 201—[AMENDED]

1. The authority citation for Part 201 continues to read as follows:

Authority: Copyright Act, Pub. L. 94-553, 90 Stat. 2541 (17 U.S.C. 702), as amended by Pub. L. 100-667.

2. Section 201.11 is added to read as follows:

§ 201.11 *Satellite carrier statements of account covering statutory licenses for secondary transmissions for private home viewing.*

³ The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title (17), except with respect to the making of copies of copyright deposits"). (17 U.S.C. 708(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

(a) *General.* This section prescribes rules pertaining to the deposit of Statements of Account and royalty fees in the Copyright Office as required by the satellite carrier license of section 119(b)(1) of Title 17 of the United States Code, as amended by Pub. L. 100-667, in order that certain secondary transmissions by satellite carriers for private home viewing be subject to statutory licensing.

(b) *Definitions.* (1) The terms "distributor," "network station," "private home viewing," "satellite carrier," "subscriber," "superstation," and "unserved household" have the meanings set forth in section 119(d) of title 17 of the United States Code, as amended by Pub. L. 100-667.

(2) The terms "primary transmission" and "secondary transmission" have the meanings set forth in section 111(f) of title 17 of the United States Code.

(c) *Accounting periods and deposit.*

(1) Statements of Account shall cover semiannual accounting periods of January 1 through June 30, and July 1 through December 31, and shall be deposited in the Copyright Office, together with the total statutory royalty fee or the confirmed arbitration royalty fee for such accounting periods as prescribed by section 119(b)(1)(B) and (c)(3) of title 17, by not later than July 30, if the Statement of Account covers the January 1 through June 30 accounting period, and by not later than the immediately following January 30, if the Statement of Account covers the July 1 through December 31 accounting period.

(2) Upon receiving a Statement of Account and royalty fee, the Copyright Office will make an official record of the actual date when such statement and fee were physically received in the Copyright Office. Thereafter, the Licensing Division of the Copyright Office will examine the statement and fee for obvious errors or omissions appearing on the face of the documents, and will require that any such obvious errors or omissions be corrected before final processing of the documents is completed. If, as the result of communications between the Copyright Office and the satellite carrier, an additional fee is deposited or changes or additions are made in the Statement of Account, the date that additional deposit or information was actually received in the Office will be added to the official record of the case. However, completion by the Copyright Office of the final processing of a Statement of Account and royalty fee deposit shall establish only the fact of such completion and the date or dates of receipt shown in the official record. It shall in no case be considered a determination that the Statement of Account was, in fact, properly prepared and accurate, that the correct amount of

(ii) The Statement of Account to which the request pertains must be sufficiently identified in the request (by inclusion of the name of the owner of the satellite carrier and the accounting period in question) so that it can be readily located in the records of the Copyright Office:

(iii) The request must contain a clear statement of the facts on which it is based, in accordance with the following requirements:

(A) In the case of a request filed under paragraph (g)(1)(i) of this section, where the information given in the Statement of Account is incorrect or incomplete, the request must clearly identify the erroneous or incomplete information and provide the correct or additional information:

(B) In the case of a request filed under paragraph (g)(1)(ii) of this section, where the royalty fee was miscalculated and the amount deposited in the Copyright Office was either too high or too low, the request must be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of Title 28 of the United States Code, made and signed in accordance with paragraph (e)(14) of this section. The affidavit or statement shall describe the reasons why the royalty fee was improperly calculated and include a detailed analysis of the proper royalty calculation.

(iv)(A) All requests filed under this paragraph (g) must be accompanied by a filing fee in the amount of \$15 for each Statement of Account involved. Payment of this fee may be in the form of a personal or company check, or of a certified check, cashier's check or money order, payable to: Register of Copyrights. No request will be

processed until the appropriate filing fees are received.

(B) All requests that a supplemental royalty fee payment be received for deposit under this paragraph (g) must be accompanied by a remittance in the full amount of such fee. Payment of the supplemental royalty fee must be in the form of certified check, cashier's check, or money order, payable to: Register of Copyrights. No such request will be processed until an acceptable remittance in the full amount of the supplemental royalty fee has been received.

(v) All requests submitted under this paragraph (g) must be signed by the satellite carrier owner named in the Statement of Account, or the duly authorized agent of the owner, in accordance with paragraph (e)(10) of this section.

(vi) A request for a refund is not necessary where the Licensing Division, during its examination of a Statement of Account or related document, discovers an error that has resulted in a royalty overpayment. In this case, the Licensing Division will forward the royalty refund to the satellite carrier owned named in * the Statement of Account without regard to the time limitations provided for in paragraph (g)(3)(i) of this section.

(4) Following final processing, all requests submitted under this paragraph (g) will be filed with the original Statement of Account in the records of the Copyright Office. Nothing contained in this paragraph shall be considered to relieve satellite carriers from their full obligations under Title 17 of the United States Code, and the filing of a correction or supplemental payment shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(h) *Interest.* (1) Royalty fee payments submitted as a result of late or amended filings will include interest. Interest will begin to accrue beginning on the first day after the close of the period for filing statements of account for all underpayments or late payments of royalties for the satellite carrier statutory license for secondary transmissions for private home viewing occurring within that accounting period. The accrual period will end on the date appearing on the certified check, cashier's check, or money order submitted by a satellite carrier, provided that such payment is received by the Copyright Office within five business days of that date. If the payment is not received by the Copyright Office within five business days of its date, the accrual period will end on the date of actual receipt by the Copyright Office.

(2) The interest rate applicable to a specific accounting period will be determined by reference to the interest rate paid by the United States Treasury on the first investment of royalty fees made by the Copyright Office with the Treasury after the close of that accounting period. The interest rate paid by the Treasury for a particular accounting period may be obtained by contacting the Licensing Division of the Copyright Office.

(3) Interest is not required to be paid on any royalty underpayment from a particular accounting period if the sum of that underpayment is less than or equal to five dollars (\$5.00).

Ralph Oman,
Register of Copyrights.

Approved by:
James H. Billington,
The Librarian of Congress.

[FR Doc. 89-15590 Filed 6-30-89; 8:45 am]
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the royalty fee had been deposited, that the statutory time limits for filing had been met, or that any other requirements to qualify for a statutory license have been satisfied.

(3) Statements of Account and royalty fees received before the end of the particular accounting period they purport to cover will not be processed by the Copyright Office. Statements of Account and royalty fees received after the filing deadlines of July 31 or January 31, respectively, will be accepted for whatever legal effect they may have, if any.

(d) *Forms.* (1) Each Statement of Account shall be furnished on an appropriate form prescribed by the Copyright Office, and shall contain the information required by that form and its accompanying instructions. Computation of the copyright royalty fee shall be in accordance with the procedures set forth in the forms. Copies of Statement of Account forms are available free upon request to the Licensing Division, United States Copyright Office, Library of Congress, Washington, DC 20557.

(2) The form prescribed by the Copyright Office is designated "Statement of Account for Secondary Transmissions by Satellite Carriers to Home Viewers."

(e) *Contents.* Each Statement of Account shall contain the following information:

(1) A clear designation of the accounting period covered by the Statement.

(2) The designation "Owner" followed by:

(i) The full legal name of the satellite carrier. If the owner is a partnership, the name of the partnership is to be followed by the name of at least one individual partner;

(ii) Any other name or names under which the owner conducts the business of the satellite carrier; and (iii) The full mailing address of the owner. Ownership, other names under which the owner conducts the business of the satellite carrier, and the owner's mailing address shall reflect facts existing on the last day of the accounting period covered by the Statement of Account.

(3) The designation "Primary Transmitters," followed by the call signs, broadcast channel numbers, station locations (city and state of license), and a notation whether that primary transmitter is a "super station" or "network station" transmitted to any or all of the subscribers of the satellite carrier during any portion of the period covered by the Statement of Account.

(4) The designation "Superstations," followed by:

(i) The call sign of each superstation signal carried for each month of the period covered by the Statement, and

(ii) The total number of subscribers to each superstation for each month of the period covered by the Statement. This number is the number of subscribers to each superstation receiving the retransmission on the last day of each month.

(5) The designation "Network Stations," followed by:

(i) The call sign of each network station carried for each month of the period covered by the Statement, and

(ii) The total number of subscribers to each network station for each month of the period covered by the Statement. This number is the number of subscribers to each network station receiving the retransmission on the last day of each month.

(6) The total number of subscribers to each superstation for the six-month period covered by the Statement multiplied by the statutory royalty rate of twelve (12) cents per subscriber (or in lieu thereof, the arbitrated rate, if applicable).

(7) The total number of subscribers to each network station for the six-month period covered by the Statement multiplied by the statutory royalty rate of three (3) cents per subscriber (or, in lieu thereof, the arbitrated rate, if applicable).

(8) The name, address, business title, and telephone number of the individual or individuals to be contacted for information or questions concerning the content of the Statement of Account.

(9) The handwritten signature of:

(i) The owner of the satellite carrier or a duly authorized agent of the owner, if the owner is not a partnership or a corporation; or

(ii) A partner, if the owner is a partnership; or

(iii) An officer of the corporation, if the owner is a corporation. The signature shall be accompanied by:

(A) The printed or typewritten name of the person signing the Statement of Account;

(B) The date of signature;

(C) If the owner of the satellite carrier is a partnership or a corporation, by the title or official position held in the partnership or corporation by the person signing the Statement of Account;

(D) A certification of the capacity of the person signing; and

(E) The following statement:

I, the undersigned Owner or Agent of the Satellite Carrier, or Officer or Partner, if the Satellite Carrier is a Corporation or Partnership, have examined this 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)]

(f) *Royalty fee payment.* The royalty fee payable for the period covered by the Statement of Account shall accompany that Statement of Account, and shall be deposited at the Copyright Office with it. Payment must be in the form of a certified check, cashier's check, or money order, payable to: Register of Copyrights.

(g) *Corrections, supplemental payments, and refunds.* (1) Upon compliance with the procedures and within the time limits set forth in paragraph (g)(3) of this section, corrections to Statements of Account will be placed on record, supplemental royalty fee payments will be received for deposit, or refunds will be issued, in the following cases:

(i) Where, with respect to the accounting period covered by a Statement of Account, any of the information given in the Statement filed in the Copyright Office is incorrect or incomplete; or

(ii) Where calculation of the royalty fee payable for a particular accounting period was incorrect, and the amount deposited in the Copyright Office for that period was either too high or too low.

(2) Corrections to Statements of Account will not be placed on record, supplemental royalty fee payments will not be received for deposit, and refunds will not be issued, where the information in the Statements of Account, the royalty fee calculations, or the payments were correct as of the date on which the accounting period ended, but changes (for example, addition or deletion of a signal) took place later.

(3) Requests that corrections to a Statement of Account be placed on record, that fee payments be accepted, or requests for the issuance of refunds, shall be made only in the case mentioned in paragraph (g)(1) of this section. Such requests shall be addressed to the Licensing Division of the Copyright Office, and shall meet the following conditions:

(i) The request must be in writing, must clearly identify its purpose, and, in the case of a request for a refund, must be received in the Copyright Office before the expiration of 30 days from the last day of the applicable Statement of Account filing period, as provided for in paragraph (c)(1) of this section. A telegraphic or similar unsigned communication will be considered to meet this requirement if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 30-day period, and if a written request meeting all the conditions of this paragraph (g)(3) is also received in the Copyright Office within 14 days after the end of such 30-day period: