



# ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559-6000

## REQUEST FOR INFORMATION

### CABLE COMPULSORY LICENSE: SPECIALTY STATION LIST

The following excerpt is taken from Volume 60, Number 15 of the Federal Register for Tuesday, January 24, 1995 (pp. 4639-4640)

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#### Copyright Office

[Docket No. RM 94-4]

#### Cable Compulsory License: Specialty Station List

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Request for information.

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**SUMMARY:** The Copyright Office is compiling a new specialty station list to identify commercial broadcast television stations that claim to qualify as specialty stations for purposes of the former distant signal carriage rules of the Federal Communications Commission (FCC). We published a list in 1990, and at that time we stated that we would revise the specialty station list at approximately three year intervals. We are now in the process of updating the list, and request all interested television broadcast stations that qualify as specialty stations, including those that previously filed affidavits, to submit sworn affidavits to us stating that the programming of their stations satisfies certain former FCC requirements.

**EFFECTIVE DATE:** Affidavits should be received on or before March 27, 1995.

**ADDRESSES:** BY MAIL: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. BY HAND: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, D.C. 20540.

#### FOR FURTHER INFORMATION CONTACT:

Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380, Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** Specialty station status is significant in the administration of the cable compulsory license, 17 USC 111. The licensing system indirectly allows a cable operator to carry the signal of a television station classified as a specialty station under the FCC's regulations in effect on June 24, 1981, at the relevant non-3.75% royalty rate for "permitted" signals. See 49 FR 14944, 14951 (April 16, 1984). Although specialty station status is determined by reference to former FCC regulations found at 47 CFR 76.5(kk)(1981),<sup>1</sup> the FCC no longer determines whether a station qualifies as a specialty station. The last time the FCC identified specialty stations was in 1976. In 1987 the Copyright Office was asked to update the list since the television industry had changed a great deal since the FCC compiled the 1976 list. Following the receipt of comments, we adopted a procedure for compiling a new list of specialty stations.

The Copyright Office compiled and published its first specialty station list, together with an announcement of our intention to update the list approximately every three years in order to maintain as current a list as possible. 55 FR 40021 (October 1, 1990). A list of stations that filed too late to be included on the 1990 list

<sup>1</sup> The FCC defined a specialty station as "a commercial television broadcast station that generally carries foreign-language, religious, and/or automated programming in one-third of the hours of an average broadcast week and one-third of the weekly prime-time hours." 47 CFR 76.5 (kk) (1981).

was published in 1991. 56 FR 26165 (June 6, 1991). This list of stations was not *per se* a list of additional specialty stations, but did list the stations that represented themselves as meeting the standards required to be carried by cable systems at specialty station rates. Since then, we have accepted sworn affidavits from broadcast stations that claim specialty station status and have kept them on file. Licensing examiners have not questioned cable systems' claims that they carry any of these distant broadcast stations as specialty stations.

Stations filing affidavits with us will be listed in a notice in the Federal Register in which we solicit public comments as to the eligibility of these stations as specialty stations. We will not verify the specialty station status of particular stations that file affidavits with us, but we will publish a final annotated list of specialty stations that includes references to any objections filed to stations' claims. The effective date of the final annotated list will coincide with the beginning of the accounting period that starts after the final list is published in the Federal Register. This will allow cable systems time to modify their channel line-ups should they discover that the status of a given station has changed.

We will operate under this final list as we did under the first specialty station list. Copyright Office licensing examiners will refer to the final annotated list in examining cable systems' claims on their statements of account that particular stations are specialty stations. If a cable system claims specialty station status for a station not on the final annotated list, the examiner will check to determine whether the station has filed an affidavit since publication of the list. Affidavits received in this manner will be accepted with the understanding that those stations will

resubmit affidavits when the Office next formally updates the specialty station list.

When we first revised the specialty station list in 1990, we decided that a television broadcast station's "current programming content" (content guaranteed to have been carried over the previous 12 months) should dictate whether the station qualifies as a specialty station. This requirement was intended to discourage broadcast stations from changing their formats at any given time simply to qualify as specialty stations. We have not, however, seen evidence that stations change formats to qualify as specialty stations for copyright purposes. Instead we believe that in certain instances a station may be hampered by the 12-month requirement. For example, a station that went on the air less than 12 months ago may not be able to gain carriage on a distant cable system as a specialty station even though its programming would meet former FCC specialty station standards.

It is not our intention to create any hardships for broadcasters, cable systems, or television viewers. We are, therefore, eliminating the 12-month requirement. As of the date of this publication, any station that has carried specialty station programming since July 1, 1994, and that continues to carry sufficient programming may qualify as a specialty station.

We now request that the owner, or a valid agent of the owner, of any eligible television broadcast station submit an affidavit to the Copyright Office stating that he or she believes that the station qualifies as a specialty station under 47 CFR 76.5(kk) (1981), the FCC's former rule defining "specialty station." The affidavit must be certified by the owner or an official representing the owner. Affidavits are due within 60 days of this publication. There is no particular format for the affidavit; however, the affidavit must confirm that the station owner believes that the station qualifies as a specialty station under the former FCC rules.

Following the 60 day period for submission of affidavits, we will compile and publish in the **Federal Register** a list of the stations that filed affidavits. At the same time, we will solicit views from any interested party as to whether or not particular stations on the list qualify as specialty stations. We will then publish in the **Federal Register** a list of specialty stations that notes any public objections to a station's claim. Copyright Office Licensing Examiners will refer to the final annotated list when examining cable systems' claims on their Statements of Account that particular stations are specialty stations.

Dated: January 17, 1995

**Marybeth Peters**  
*Register of Copyrights.*

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