

(ii) 1 per centum of any gross receipts in excess of \$189,800 but less than \$379,600, regardless of the number of distant signal equivalents, if any.

(c) Notwithstanding paragraphs (a) and (d) of this section, commencing with the first accounting period of 1983 and for each semiannual accounting period thereafter, for each distant signal equivalent or fraction thereof not represented by the carriage of:

(1) Any signal which was permitted (or, in the case of cable systems commencing operations after June 24, 1981, which would have been permitted) under the rules and regulations of the Federal Communications Commission in effect on June 24, 1981, or

(2) A signal of the same type (that is, independent, network, or non-commercial educational) substituted for such permitted signal, or

(3) A signal which was carried pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules were in effect on June 24, 1981;

the royalty rate shall be, in lieu of the royalty rates specified in paragraphs (a) (2) through (4) and (d) of this section, 3.75 per centum of the gross receipts of the cable systems for each distant signal equivalent; any fraction of a distant signal equivalent shall be computed at its fractional value.

(d) Commencing with the first semiannual accounting period of 1990 and for each semiannual accounting period thereafter, in the case of a cable system located outside the 35-mile specified zone of a commercial VHF station that places a predicted Grade B contour, in whole or in part, over the cable system, and that is not significantly viewed or otherwise exempt from the FCC's syndicated exclusivity rules in effect on June 24, 1981, for each distant signal equivalent or fraction thereof represented by the carriage of such commercial VHF station, the royalty rate shall be, in addition to the amount specified in paragraph (a) of this section,

(1) For cable systems located wholly or in part within a top 50 television market,

(i) .599 per centum of such gross receipts for the first distant signal equivalent;

(ii) .377 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

(iii) .178 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter;

(2) For cable systems located wholly or in part within a second 50 television market,

(i) .300 per centum of such gross receipts for the first distant signal equivalent;

(ii) .189 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

(iii) .089 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter;

(3) For purposes of this section *top 50 television markets* and "second 50 television markets" shall be defined as the comparable terms are defined or interpreted in accordance with 47 CFR 76.51, as effective June 24, 1981.

[47 FR 52159, Nov. 19, 1982, as amended at 50 FR 18481, May 1, 1985; 54 FR 12619, Mar. 28, 1989; 55 FR 33613, Aug. 16, 1990; 56 FR 12122, Mar. 22, 1991. Redesignated at 59 FR 23993, May 9, 1994, as amended at 63 FR 30636, June 5, 1998; 63 FR 39739, July 24, 1998; 65 FR 39820, June 28, 2000; 65 FR 64623, Oct. 30, 2000]

PART 257—FILING OF CLAIMS TO SATELLITE CARRIER ROYALTY FEES

Sec.

- 257.1 General.
- 257.2 Time of filing.
- 257.3 Content of claims.
- 257.4 Compliance with statutory dates.
- 257.5 Copies of claims.
- 257.6 Separate claims required.

AUTHORITY: 17 U.S.C. 119(b)(4).

SOURCE: 59 FR 23993, May 9, 1994, unless otherwise noted.

§ 257.1 General.

This part prescribes the procedures under 17 U.S.C. 119(b)(4) whereby parties claiming to be entitled to compulsory license royalty fees for secondary transmissions by satellite carriers of television broadcast signals to the public for private home viewing shall file claims with the Copyright Office.

§ 257.2 Time of filing.

During the month of July each year, any party claiming to be entitled to compulsory license royalty fees for secondary transmissions by satellite carriers during the previous calendar year of television broadcast signals to the public for private home viewing shall file a claim to such fees with the Copyright Office. No royalty fees shall be distributed to any party during the specified period unless such party has timely filed a claim to such fees. Claimants may file claims jointly or as a single claim.

§ 257.3 Content of Claims.

(a) *Single claim.* A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a satellite carrier shall include the following information:

(1) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(2) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a satellite carrier of such work or works establishing a basis for the claim.

(3) The name, telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the person or entity filing the single claim.

(4) An original signature of the copyright owner or of a duly authorized representative of the copyright owner.

(b) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a satellite carrier shall include the following information:

(1) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(2) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(1) of this section.

(3) A general statement of the nature of the copyright owners' works, identification of at least one secondary transmission of one of the copyright owners' works by a satellite carrier establishing a basis for the joint claim, and the identification of the copyright owner of each work so identified.

(4) The name, telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the person filing the joint claim.

(5) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners.

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

[66 FR 29704, June 1, 2001]

§ 257.4 Compliance with statutory dates.

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are hand delivered, either by the claimant, the claimant's agent, or a private delivery carrier, to: Office of the Register of Copyrights, Room 403, James Madison Memorial Building, 101 Independence Avenue, SE, Washington, DC 20540, during normal business hours during the month of July; or

(2) They are addressed to: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024, and are deposited with sufficient postage with the United States Postal Service and bear a July U.S. postmark.

(b) Notwithstanding subsection (a), in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in August, or

§ 257.5

properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in August, shall be considered timely filed.

(c) Claims dated only with a business meter that are received after July 31, will not be accepted as having been timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, a claimant may nonetheless prove that the claim was properly filed if it was sent by certified mail return receipt requested, and the claimant can provide a receipt bearing a July date stamp of the U.S. Postal Service, except where paragraph (b) of this section applies. No affidavit of an officer or employee of the claimant, or of a U.S. postal worker will be accepted in lieu of the receipt.

[59 FR 23993, May 9, 1994, as amended at 59 FR 63043, Dec. 7, 1994; 61 FR 63718, Dec. 2, 1996; 63 FR 30636, June 5, 1998; 65 FR 39820, June 28, 2000]

§ 257.5 Copies of claims.

A claimant shall, for each claim submitted to the Copyright Office, file an original and two copies of the claim to satellite carrier royalty fees.

§ 257.6 Separate claims required.

If a party intends to file claims for both cable compulsory license and satellite carrier compulsory license royalty fees during the same month of July, that party must file separate claims with the Copyright Office. Any single claim which purports to file for both cable and satellite carrier royalty fees will be dismissed.

PART 258—ADJUSTMENT OF ROYALTY FEE FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

Sec.

258.1 General.

258.2 Definition of syndex-proof signal.

258.3 Royalty fee for secondary transmission of broadcast stations by satellite carriers.

AUTHORITY: 17 U.S.C. 702, 802.

37 CFR Ch. II (7-1-02 Edition)

§ 258.1 General.

This part 258 adjusts the rates of royalties payable under the compulsory license for the secondary transmission of broadcast stations under 17 U.S.C. 119.

[57 FR 19053, May 1, 1992. Redesignated and amended at 59 FR 23994, May 9, 1994; 63 FR 30636, June 5, 1998]

§ 258.2 Definition of syndex-proof signal.

A satellite retransmission of a broadcast signal shall be deemed “syndex-proof” for purposes of § 258.3(b) if, during any semiannual reporting period, the retransmission does not include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission.

[57 FR 19053, May 1, 1992. Redesignated and amended at 59 FR 23994, May 9, 1994]

§ 258.3 Royalty fee for secondary transmission of broadcast stations by satellite carriers.

(a) Commencing May 1, 1992, the royalty rate for the secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

(1) 17.5 cents per subscriber per month for superstations.

(2) 14 cents per subscriber per month for superstations whose signals are syndex-proof, as defined in § 258.2.

(3) 6 cents per subscriber per month for network stations and noncommercial educational stations.

(b) Commencing January 1, 1998, the royalty fee for secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

(1) 27 cents per subscriber per month for distant superstations.

(2) 27 cents per subscriber per month for distant network stations.

(3) No royalty rate (zero) for a superstation secondarily transmitted within the station’s local market, as defined in 17 U.S.C. 119(d)(11).

(4) No royalty rate (zero) for a network station secondarily transmitted within the station’s local market, as