
Cable and Satellite Royalty Claims Due to be filed with Copyright Royalty Board by August 1, 2011

by Scott R. Flick and Lauren Lynch Flick

This advisory is directed to television stations with locally-produced programming whose signals were carried by at least one cable system located outside the station's local service area or by a satellite provider which provided service to at least one viewer outside the station's local service area during 2010. Such stations may be eligible to file royalty claims for compensation with the United States Copyright Royalty Board in Washington, DC. These filings are due by Monday, August 1, 2010 at 5pm (EDT) because the customary deadline of July 31 falls on a weekend.

Under the federal Copyright Act, cable systems and satellite operators must pay "compulsory license" royalties to carry TV distant signals on their systems. Ultimately, the Copyright Royalty Board divides the royalties among those copyright owners who claim shares of the royalty fund. Stations that do not file claims by the deadline will not be able to collect royalties for carriage of their signals during 2010.

In order to file a cable royalty claim, the television station in question must have aired locally-produced programming and had its signal carried outside of its local service area by at least one cable system in 2010. Generally, a station's "local service area" is its DMA, but it also includes areas in which the station would be considered entitled to carriage under FCC Rules in effect on April 15, 1976. A station's distant signal status should therefore be evaluated/confirmed by communications counsel. Similarly, television stations with locally-produced programming whose signals were delivered to subscribers located outside the station's DMA for home viewing in 2010 by a satellite carrier are also eligible to file royalty claims as "distant signals".

Both the cable and satellite claim forms may be filed electronically. The electronic forms are available online at <http://www.loc.gov/crb/claims/>. To submit claims online, follow the instructions available at that site. You will be required to supply the name and address information for the claimant and the copyright owner, provide a general statement as to the nature of the copyrighted work (i.e., local news, sports

broadcasts, specials or other station-produced programming), and submit at least one example of retransmission as a distant signal. For cable claims, you will also be required to supply the name of the program, the station's city and state of license, a date in 2010 when retransmission as a distant signal occurred, and the name and location of a cable system that retransmitted the station to subscribers on a distant signal basis. For each satellite retransmission you identify, you will need to supply the name of the program, the station's city and state of license, a date in 2010 when retransmission as a distant signal occurred, and the name of a satellite carrier that retransmitted the station to subscribers on a distant signal basis. Claimants should keep copies of all submissions and confirmations of delivery, including certified mail receipts.

Claims can also be submitted in paper form. Detailed rules as to how the claims must be addressed and delivered apply. Of note, claims that are hand-delivered by a local Washington, D.C. courier must be filed one hour earlier, by **4:00 pm**. Claims may be sent by certified mail, if they are properly addressed, postmarked by August 1, 2011, and include sufficient postage. Overnight delivery services such as Federal Express cannot be used. Stations filing paper claims should verify the proper procedures with communications counsel.

Please contact any of the group's attorneys for assistance in determining whether your station qualifies to make a claim, and in filing the claim itself.

If you have any questions about the content of this advisory, please contact the Pillsbury attorney with whom you regularly work, or the authors of this advisory.

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