FINAL REGULATIONS

PART 201--GENERAL PROVISIONS

COMPULSORY LICENSE FOR CABLE SYSTEMS

The following excerpt is taken from Volume 43, No. 124 of the Federal Register for Tuesday, June 27, 1978 (pp. 27827-27835).

On January 5, 1978 the Copyright Office published in the Federal Register (43 FR 585) new §§ 201.11 and 201.17 of its regulations governing the form, content, and filing of the Notices and Statements of Account required by section 111(d)(1) and (2) of the Copyright Act. As we pointed out in the preamble to the regulations: "we are dealing with an entirely new area of copyright law in which all parties concerned lack practical experience..." These regulations must be considered experimental and subject to reconsideration as circumstances and experience develop.

Many of the parties filing comments in the proceedings that led to adoption of the regulations urged us to adopt forms for cable systems to use in complying with the requirements of the Act concerning Statements of Account. We found these requests persuasive. The information required to be furnished in the Statements of Account is detailed and extensive; in some instances, such as computation of the copyright royalty fee by cable systems carrying two or more programs, the information required is very complicated. We have concluded that adoption of forms for use in filing Statements of Account will generally be helpful to cable systems, as well as to copyright owners, the Copyright Office, and the Copyright Royalty Tribunal. Providing standardized forms should make the information furnished more accurate, complete, and understandable, and should make access to that information much easier, than would have been the case if each cable system were to devise its own method of presenting the information. Accordingly, we have adopted forms for use by cable systems in filing the Statements of Account required by section 111(d)(2) of the Act, and are requiring that these forms be used in all cases. The forms are being made available simultaneously with the publication of these revised regulations. We are deferring the question of whether to adopt forms for use in filing Notices of Identity and Notices of Change (the information required by section 111(d)(1) of the Act) pending further exploration of joint forms with the FCC.

Preparation of the forms for Statements of Account was an extraordinarily difficult and time-consuming process. In the course of designing the forms we found helpful the ideas contained in the form proposed by the Motion Picture Association of America and in other comments dealing with the Statement of Account. However, these suggestions and comments did not deal with a very complex and significant issue, and only part of the number of items of required information, leaving a number of issues unresolved. Resolution of these issues, and of others that became apparent as the forms took shape, required a great deal of time. In addition, we took particular care to design into the forms a step-by-step process which, with the accompanying instructions, should make them as useful as possible for all concerned for the cable systems, in accuracy and optimum efficiency in presenting the information, and for copyright owners, in ease of access to, and understandability of, the information furnished. For the Copyright Office and the Copyright Royalty Tribunal, the forms should also make the information available at the least administrative cost. As a result of the time required to resolve the issues and prepare the forms, and the necessity that the forms be completed and in the hands of cable systems in time for use in the preparation and filing of Statements of Account covering the first 6 months of 1978, we were unable to offer the parties concerned an opportunity to review the forms themselves. However, the forms as issued and the corresponding revisions in the regulations reflect our resolution of issues that for the most part were subject to full public comment during the earlier stages of this proceeding.

In the course of preparing the forms it became apparent that corresponding changes would be required in the regulations. The purpose of this notice is to issue the revised regulations. The significant changes are discussed below. There are also a number of
fee to the local origination services, and report only the balance as "gross receipts." We do not believe that allocation is permissible in these cases. The primary transmitters or cable systems offering services are clearly part of an integral package offered to subscribers. If they are to be considered a "community" under the Act, that definition should be considered a "community unit" in determining the basic monthly service fee paid by the subscribers of the cable system which includes the primary transmitters and the secondary station. The latter station is a "parent," two "primary transmitters" are involved.

3. TRANSLATORS

Although we affirmed in the regulations that translators are primary transmitters for all purposes, we did not specifically resolve the question of how to classify translators by type in light of the specific language used in defining types of stations in section 111(f) of the Act. Since translator stations are generally not owned, operated, controlled, or affiliated by, or affiliated with television networks, the definition of a "network station" in section 111(f) could be construed to exclude translators. The result would be to classify translators as independent stations, with a distant signal equivalent ("DSE") of one, even in cases where the translator's "parent" station is a network station.

The Act is clear that each cable system must maintain its own nonnetwork programming of television stations carried by it, and to require no payment for network programming. It is also generally assumed that substantially all of the programming of an independent station is nonnetwork, and that onequarter of that programming is a network station is nonnetwork. On this assumption, the Act assigns to independent stations a DSE value of one, and to network stations and noncommercial educational stations a DSE of one-quarter. The purpose of the section 111(f) definition of a "network station" is to establish a single standard to be used in identifying stations which are considered to have program schedules that are approximately 75 percent network, and which therefore should be given a DSE of one-quarter instead of a DSE of one. Rigid application of this definition to translators could result in the assignment of full value (i.e., a DSE of one) to a station which, while not satisfying the technical definition of a "network station," could still fact a "network station" in all respects that are relevant to the DSE concept. This would be a distortion of the intent of the Act.

Accordingly, under §201.17(b)(4) of our revised regulations, a translator station that retransmits the programs of an independent station is considered an independent station; a translator station retransmitting the programs of a noncommercial educational station is considered a noncommercial educational station, and a translator station that retransmits the programs of a network station is considered a network station. In all cases, however, it is the translator station that must be identified as a "primary transmitter," and whether the translation should be considered a "network station" depends on the local area of that translator station. The cable system carries the sign "translator station" on a "parent," two "primary transmitters" are involved.

4. ERRORS AND OMISSIONS

As part of its responsibilities section 111 of the Act, the Commission will examine each State Account report received by it. If any errors or omissions are noted on the face document, the Commission will cal community unit.

5. CASH OR ACCRUAL ACCOUNT

One comment requested us to firm that, in reporting gross receivables from cable systems whose revenue is kept on a cash basis, we have included in the gross revenues from cable systems whose revenue is kept on a cash basis the gross receipts for service furnished after January 1, 1978, for secondary mission service furnished before that date, and (ii) payments made January 1, 1978, for secondary mission service furnished before that date.

6. INFORMATION REQUIRED FROM SYSTEMS WITH "GROSS RECEIPTS" OF $41,500 OR LESS

The regulations excluded cable systems with gross receipts of less than $40,000 from furnishing certain information required of systems with "gross receipts" of $41,500 or more. We were to include in this category cable systems that, under the provisions of section 111(d)(2)(C) Act, pay a royalty fee computed on the basis of the statutory minimum revenue of $15. Upon reviewing the mula set forth in section 111(d)(2)(C) Act, we recognized that cable systems with gross receipts of between $40, $41,500 or less, would not pay the minimum revenue fee of $15. In order to fulfill our original purpose, we provided in §201.17(e)(9)(i).
cable systems with gross receipts of $41,500 or less are excused from furnishing the information specified in that paragraph.

7. CARRIAGE OF SPECIFIC NETWORK PROGRAMS

FCC rules permit a cable system, in certain circumstances, to carry specific network programs on a part-time basis (47 CFR §76.59(d) (2) and (4); 76.61(e) (2) and (4); and 76.63 (referring to §76.61(e) (2) and (4))). As noted above, the DSE of one-quarter given to network stations carried by a cable system is intended to cover nonnetwork programming broadcast by the stations. For copyright fee purposes, no DSE value is assigned to carriage of network programs because the Act does not contemplate any payment for that carriage.

Where a cable system carries a station under the specific network program rules cited above, the question of payment of a proportionate royalty fee for carriage of nonnetwork programs does not arise, since by definition no nonnetwork programs were carried. It follows that, to assign a DSE to a station based only on carriage of network programs under the rules cited above would be contrary to the intent of the Act.

Accordingly, we have provided in §201.17(f)(3)(iv) that the carriage of a network station under these FCC rules is to be excluded from computation of that station’s DSE. In addition, since carriage on this basis has no effect on either the cable system’s copyright royalty fee or on distribution of cable system royalty fees to copyright owners, it would be an unjustifiable hardship to require cable systems to report that carriage. We are therefore providing that cable systems need not report carriage of television stations under these FCC rules (see above), in Initial Notices of Identity, Notices of Change, or Statements of Account.

8. SUBSTITUTE PROGRAMS: REASON FOR DELETION OF OMITTED PROGRAM

The regulations adopted on January 5, 1978, required cable systems filing Statements of Account to indicate whether a deleted program for which another program was substituted was omitted (1) under FCC rules or regulations which permitted its deletion, or (2) because its deletion was required by NCC rules. These regulations also required cable systems to describe the legal basis for the deletion. The Statement of Account forms which were not amended made the requirement of a description of the legal basis for deletion superfluous. Accordingly, the regulations have been revised (§201.17(e)(1)(ii)) to require only that the statement indicate whether omission of the deleted program was permitted.

9. COMPUTATION OF DISTANT SIGNAL EQUIVALENTS

Section 111(d) of the Act provides that, in computing the DSE of a primary transmitter that broadcasts a program carried by a cable system in substitution for another program, that if a DSE is rounded off in any case, it must be rounded off through the Statement.

10. ROYALTY FEE PAYMENT

Copyright royalty fees are due on the dates specified in the regulations and, as determined by the Copyright Royalty Board, of the Copyright Office, are to be invested by the Department of the Treasury in "interest-bearing United States securities for later distribution with interest to the right owners of the phonorecording." Copyright owners are thus entitled to interest earned on royalty fees from the earliest date on which they are received.

We confess we have not always held as we do now, for revenue purposes, that some of these costs are incurred in handling bank checks, we are requiring in §201.17(f) that all copyright royalty fee payments be made by certified check, cashier’s check, or money order.

11. PARTIALLY DISTANT STATIONS: COMPUTATION OF COPYRIGHT ROYALTY FEE

The Act provides that, in computing the minimum fee for a partially distant station (section 111(d)(2)(K)) (II, III, and IV), the gross receipt for "any cable system located part within and part without the local service area of a primary transmitter shall be limited to those gross receipts derived from subscribers located without the local service area of such transmitter." In the comments on the question of computation of the copyright royalty fee for these cases, a few comments were received on the point, and those received either did not reflect the intent of the Act or did not fully address all aspects of the issue.

Where all of a cable system’s distant stations are partially distant, where the local service areas of all these stations exactly coincide, compu-
applied to this situation. We concluded (§ 201.17(g)) that gross receipts from each subscriber must be considered separately from gross receipts from other subscribers, and a copyright royalty fee must be computed for each subscriber's gross receipts, using the DSE royalty fee formula, based on the gross receipts of all stations, and to which that subscriber is "distant." The cable system's copyright royalty fee would either be the minimum fee computed under section 111(d)(2)(B)(ii), or would be the total of all gross receipts comprised, royalty fees computed as described above, whichever is the greater. For ease of computation, we have provided in the Statement of Account form that gross receipts from subscribers who are distant as to exactly the same complement of stations are to be added together and royalty fees for those subscribers are to be computed for as a group; that is, a royalty fee is to be computed for each group of subscribers who are distant as to exactly the same complement of stations, based on (1) total gross receipts from subscribers in that group, and (2) total DSEs of that complement of stations.

12. Broadcast Hours of Part-Time Stations

Computation of the DSE of a station carried on a part-time basis requires knowledge of the hours during which the station broadcast over the air during the accounting period. Questions have been raised as to sources for obtaining this information, and specifically whether or not it will be furnished by the Copyright Office. The Copyright Office does not have the facilities to collect, maintain, and supply this information about the hundreds of television stations carried by cable systems, and it will therefore be necessary for cable systems to obtain that information from other sources.

Final Regulations

The final regulations, as revised, are set forth below.

Dated: June 20, 1978.

Barbara Ringer,
Register of Copyrights.

Approved:
Daniel J. Boorstin,
Librarian of Congress.

Final Regulations

Part 201 of 37 CFR Chapter II (as amended on January 5, 1978) is amended by revising §§ 201.11 and 201.17 to read as follows:

§ 201.11 Notices of identity and signal carriage complement of cable systems.

(a) Definitions. (1) An "Initial Notice of Identity and Signal Carriage Complement" or "Initial Notice" is a notice under section 111(d)(1) of title 17 of the United States Code as amended by Pub. L. 94–553 and required by that section to be recorded in the Copyright Office "at least one month before the date of commencement of operations of the cable system or within one hundred and eighty days after (October 19, 1976), whichever is later," for any secondary transmission by the cable system to be subject to compulsory licensing.

(2) A "Notice of Change of Identity or Signal Carriage Complement" or "Notice of Change" is a notice under section 111(d)(1) of title 17 of the United States Code, as amended by Pub. L. 94–553 and required by that section to be recorded in the Copyright Office "within thirty days after each occasion on which the ownership or control or signal carriage complements of the system, including any secondary transmission by the cable system to be subject to compulsory licensing.

(3) A "cable system" is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. A system is not defined as a "cable system" for copyright purposes, even if the FCC excludes it from being considered a "cable system" because of the number of subscribers or the nature of its secondary transmissions. The Notices required to be recorded by this section, and the statements of account and royalty fees to be deposited under § 201.17 of these regulations, shall be recorded and deposited by each individual cable system desiring its secondary transmissions to be subject to compulsory licensing. For these purposes, and the purposes of § 201.17 of these regulations, an "individual" cable system is each cable system recognized as a distinct entity under the rules, regulations, and Notice of Change of Identity or Signal Carriage Complement; or (ii) on the last day of the accounting period covered by a Statement of Account, in the case of the preparation and deposit of a Statement of Account and copyright royalty fee. For these purposes, two or more cable facilities are considered as one individual cable system if the facilities are either (i) within the same company under common ownership or control or (B) operating from one headend.

(4) In the case of cable systems which make secondary transmissions of all available FM radio signals, which signals are not electronically processed by the system as separate and discrete signals, an FM radio signal is "generally receivable" if (i) it is transmitted by this system under title 17 of the United States Code or, however it is received at the system's headend, and (ii) as a result of monitoring at reasonable times and intervals, it can be expected to be received at the system's headend, with the system's FM antenna, at least three consecutive hours each day at the same time each day, for five or more days a week, for five or more weeks during any continuous time periods of more than thirty-five microvolts per meter measured at the foot of the tower or pole which the antenna is attached.

(5) The signals of a primary signal transmission carried by one or more television broadcast stations are carried by the cable system at least one hour each week for the first or more consecutive weeks, or if cases described in paragraph (a) this section, they comprise generally and on a continuous basis.

(b) Forms. The Copyright Office does not provide printed forms for use of persons recording Notices of Identity and Signal Carriage Complement shall be identified by prominent caption or he and shall include the following:

(i) The designation "Owner" is to be the name of the cable system. The name of the owner is a partnership, the name of the partnership is to be follow the name of at least one individual under which the owner conducts business (cable system, and the owner's mailing address of the correspondence, under which the owner conducts business (cable system, and the owner's mailing address shall reflect facts exist the day the Notice is filed.

(ii) The designation "System" is the name of any business or the name of the business located at the system's mailing address of the correspondence, under which the owner conducts business (cable system, and the owner's mailing address shall reflect facts existing the day the Notice is filed.

(iii) The designation "Area" is the name of the county or community served by the system. For this purpose a "community" is qualified as defined in FCC rules and regulations.

(iv) The designation "Signal Carriage Complement", followed by the name and location of the p transmitters is to be the name of the p transmitters who are identified, whose signals are, or are expected to be, regularly carried by the system. Carriage of a primary signal or network programs on a part-time basis in certain circumstances (47 76.59(d) (2) and (4); 76.61(e) (2); and 76.63 (referring to 76.61 and 4(d)) need not be reported.

(c) Notice of Change of Identity and Signal Carriage Complement shall be given by call sign, accompanied by a brief description of the type of signal carriage example, "TV", "FM", or "AM" located at the p transmitter(s) shall be given by call sign, accompanied by a brief description of the type of signal carriage example, "TV", "FM", or "AM" located at the p transmitter(s) shall be given by call sign, accompanied by a brief description of the type of signal carriage example, "TV", "FM", or "AM" located at the
name of the community to which the transmitter is licensed by the Federal Communications Commission (in the case of domestic signals) or with which the transmitter is identified (in the case of foreign signals).

(B) In the case of cable systems which make secondary transmissions of all available FM radio signals, which signals are not electronically processed by the system as separate and identifiable, the Notice shall forthwith identify that portion of its signal carriage as "all-band FM" or the like, and shall separately identify the name and location of each primary transmitter of signals whose signals are generally receivable by the system. In any case where such generally receivable FM signals cannot be determined at the time of recording of the Initial Notice, they shall be subsequently identified in a Special Amendment recorded in compliance with paragraph (e) of this section.

(v) The individual signature of: (A) The owner of the cable system or of a duly authorized agent of the owner, if the owner is not a partnership, or a corporation; (B) a partner or a corporation, if the owner is a partnership; or (C) an officer of the corporation, if the owner is a corporation. The signature shall be affixed to the Notice before the registered and written name of the person signing the Notice, by the date of signature, and, if the owner of the cable system is a partnership, corporation, or other legal entity or official position held in the partnership or corporation by the person signing the Notice.

(2) The requirements of paragraph (c)(x) of this section shall apply only to Initial Notice of Identity and Signal Carriage Complement or Initial Notice of Change of Identity and Signal Carriage Complement recorded on or after July 31, 1978. Initial Notices of Change of Identity and Signal Carriage Complement recorded on or after January 1, 1978 shall be governed by the applicable Copyright Office regulations in effect before June 27, 1978.

(6) Notice of Change of Ownership: (A) The designation "Owner", followed by the full legal name of the owner of the cable system as given in the Initial Notice recorded on or before January 1, 1978, shall be the name of an owner, if the person or entity exercising primary control in the Initial Notice or last Notice of Change, in the case of a change of ownership (i) for which a Notice of Change was not recorded before February 10, 1978, is a party to a contract which involves a cable system that recorded an Initial Notice of Identity and Signal Carriage Complement before February 10, 1978, and (ii) for which the cable system, the designation "Owner" shall be followed by the name of the person or entity which, with the person or entity exercising primary control in the Initial Notice or last Notice of Change, shall not be required to be recorded to reflect changes in the complement of such signals until the expiration of a hundred and twenty days from the date of recordation of a Special Amendment under paragraph (e)(2) of this section.

(4) The provisions of paragraph (d)(1) and (d)(2) of this section shall, where applicable, be applied to Initial Notices of Change and Special Amendments to Initial Notices of Change recorded on or after July 31, 1978. N Notices of Change recorded before July 31, 1978 shall be governed by the applicable Copyright Office regulations in effect before June 27, 1978.

(6) Notice of Change of Ownership: (A) The designation "Owner", followed by the full legal name of the owner of the cable system as given in the Initial Notice recorded on or after January 1, 1978, shall be the name of an owner, if the person or entity exercising primary control in the Initial Notice or last Notice of Change, in the case of a change of ownership (i) for which a Notice of Change was not recorded before February 10, 1978, is a party to a contract which involves a cable system that recorded an Initial Notice of Identity and Signal Carriage Complement before February 10, 1978, and (ii) for which the cable system, the designation "Owner" shall be followed by the name of the person or entity which, with the person or entity exercising primary control in the Initial Notice or last Notice of Change, shall not be required to be recorded to reflect changes in the complement of such signals until the expiration of a hundred and twenty days from the date of recordation of a Special Amendment under paragraph (e)(2) of this section.

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accordance with paragraph (c)(1)(v) of this section. The signature shall be accompanied by the typed or typewritten name of the owner of the system as given in the Notice sought to be amended.

(3) **Special Required Amendments for Cable Systems Which Record Initial Notices on or after February 10, 1978.** Any cable system which records an Initial Notice of Identity and Signal Carriage Complement on or after February 10, 1978 and is required by the last sentence of paragraph (c)(1)(iv)(B) of this section to record a special amendment shall, no later than one hundred and twenty days after recordation of the Initial Notice, file an amendment to that Notice identifying the primary transmitter or primary transmitters of FM signals generally receivable by the system as of the date of the amendment, and in accordance with paragraphs (c)(1)(iv) (A) and (B) of this section. Such amendment shall (i) be clearly and prominently identified as an Amendment to Initial Notice Identifying Signal Carriage Complement; (ii) specifically identify the Initial Notice intended to be amended so that it may be readily located in the records of the Copyright Office; and (iii) be signed and dated in accordance with paragraph (c)(1)(v) of this section. The signature shall be accomplished by the printed or typewritten name of the owner of the system as given in the Notice sought to be amended.

(1) **Recordation.** (1) The Copyright Office will record the Notice and amendment deemed filed in this section by placing them in the appropriate public files of the Office. The Copyright Office will advise cable systems of errors or omissions appearing on the face of documents submitted to it, and will require that any such obvious errors or omissions be corrected before the documents will be recorded. However, recordation by the Copyright Office shall be limited only to the fact and date thereof; such recordation shall in no case be considered a determination that the document was, in fact, properly prepared or that all the requirements to qualify for a compulsory license have been satisfied.

(2) No fee shall be required for the recording of Initial Notices, Notices of Change, or the Special Amendment identified in paragraphs (e)(2) and (e)(3) of this section. A fee of $10 shall accompany any General Amendment permitted by paragraph (e)(1) of this section.

(3) **Upon request and payment of a fee of $3,** the Copyright Office will furnish a certified receipt for any Notice or amendment recorded under this section.

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions total between $41,500 and $160,000. Such statements shall be filed not later than on or before the 30th day of April in the year following the end of the accounting period covered by such statement.

(a) **General.** This section prescribes rules pertaining to the deposit of Statements of Account and royalty fees in the Copyright Office as required by section 111(d)(2)(B) of title 17 of the United States Code, as amended by Pub. L. No. 94-553, effective for secondary transmissions of cable systems to be subject to compulsory licensing.

(b) **Definitions.** (1) Gross receipts for the "basic service of providing secondary transmission of primary broadcast transmitters" include the full amount of monthly (or other periodic) service fees for television and radio retransmission service, additional set fees, and converter fees. They do not include installation (including connection, relocation, disconnection, or reconnection) fees, charges for pay-cable, security, alarm or facsimile services, or charges for late payments.

(2) A "cable system" and "individual cable system" have the meanings set forth in § 201.11(a)(3) of these regulations.

(3) **"FCC"** means the Federal Communications Commission.

(4) In the case of cable systems which make secondary transmissions of all available FM radio signals, whether electronically processed by the system as separate and discrete signals, or an FM radio signal is "generally receivable" under the conditions set forth in § 201.11(a)(3) of these regulations.

(5) The terms "primary transmission," "secondary transmission," "local service area of a primary transmitter," "distant signal equivalent," "network station," "independent station," and "noncommercial educational station" have the meanings set forth in section 111(f) of title 17 of the United States Code, as amended by Pub. L. No. 94-553.

(b) **Fees.** (1) Each Statement of Account shall be filed on an appropriate form prescribed by the Copyright Office, and shall contain the information required by this regulation and its accompanying instructions. Computation of the aggregate royalty fee shall be in accordance with the procedures set forth in this form. Copies of the forms prescribed herein are available free upon request to the Licensing Division, United States Copyright Office, Library of Congress, Washington, D.C. 20557.

(2) The forms prescribed by the Copyright Office are designated "Statement of Account for Secondary Transmissions By Cable Systems":

(a) Form CS/SA-1. "Short Form" for cable systems whose semi-annual gross receipts for secondary transmissions total $41,500 or less;

(b) Form CS/SA-2. "Intermediate Form" for use by cable systems whose semi-annual gross receipts for secondary transmissions total between $41,500 and $160,000; and

(c) Form CS/SA-3. "Long Form" for use by cable systems whose semi-annual gross receipts for secondary transmissions total $160,000 or more.

(c) **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: (A) The full legal name of the owner of the cable system. If the owner is a partnership, the name of the partnership is to be followed by the name of at least one individual partner; (B) any other name or names under which the owner conducts the business of the cable system; and (C) the full mailing address of the owner. Ownership, other names under which the owner conducts the business of the cable system, and the owner's mailing address shall reflect facts existing on the last day of the accounting period specified in the statement.

*Correction:* line 4 should read: amended.

**Correction:** line 1 should read: In the case of an amendment to an Initial Notice or Notice of Change recorded before February 10, 1978 which did not include the name of the owner, the signature shall be accompanied by the typed or typewritten name of the operator, person or entity exercising primary control over the system, as given in the Notice sought to be amended.
cessed by the system as separate and discrete signals; and

(b) The primary transmitter carried on an all-band retransmission basis, the signals of which were generally receivable by the system.

(iii) A designation as to whether the primary transmitter is AM or FM. This designation indicates the compatibility to which that primary transmitter is licensed by the FCC (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(v) If the cable system carried FM primary transmitters on an all-band retransmission basis, a clear description of the nature and frequency of the monitoring activities and equipment used during the period covered by the Statement of Account to determine the identity of such transmitters.

(11) A special statement and program log, which shall consist of the information indicated below for all non-network television programming that, during the period covered by the Statement, was carried in whole or in part beyond the local service area of the primary transmitter of such program under (i) rules or regulations of the FCC requiring a cable system to omit the further transmission of a particular program and permitting the substitution of another program in place of the omitted transmission; or (ii) rules, regulations, or authorizations of the FCC in effect on October 19, 1976, permitting a cable system, at its election, to omit the further transmission of a particular program and permitting the substitution of another program in place of the omitted transmission:

(A) The name or title of the substitute program.

(B) Whether the substitute program was transmitted live by its primary transmitter.

(C) The station call sign of the primary transmitter of the substitute program.

(D) The name of the community to which the primary transmitter of the substitute program is licensed by the FCC (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(E) The date when the secondary transmission of the substitute program occurred, and the hours during which such secondary transmission occurred on that date accurate to the nearest 5 minutes.

(F) A designation as to whether deletion of the omitted program was permitted by the rules, regulations, or authorizations of the FCC in effect on October 19, 1976, or was required by the rules, regulations, or authorizations of the FCC.

(12) A statement of the total royalty fee payable for the period covered by the Statement of Account, together with a statement of the method which gives a clear, complete, and detailed presentation of the determination of such fee. This analysis shall present in appropriate sequence all facts, figures, and mathematical processes used in determining such fee, and shall do so in such manner as required in the appropriate form so as to permit the Copyright Office to verify readily, from the face of the Statement of Account, the accuracy of such determination and fee. The royalty fee analysis is not required to be given by any cable system whose gross receipts from subscribers for the period covered by theStatement of Account, for the basic service of providing secondary transmissions of primary broadcasts transmissions, total $41,500 or less.

(13) The name, address, and telephone number of an individual who may be consulted by the Copyright Office for further information about the Statement of Account.

(14) The handwritten signature of:

(i) The owner of the cable system 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 cable system 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 certify that I have examined this Statement of Account and 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.

(f) Computation of Distant Signal Equivalents. (1) A cable system that elects to delete a particular television program and substitute for that program another television program ("substitute program") under rules, regulations, or authorizations of the FCC in effect on October 19, 1976, which permit a cable system, at its election, to omit the further transmission of a particular program and substitute another program in its place shall compute the distant signal equivalent ("DSE") of each primary transmitter that transmits the substitute program by dividing: (i) The number of the primary transmitter's live, non-network, substitute programs that were carried by the cable system, during the period covered by the Statement of Account, in substitution for programs deleted at the option of the system; by (ii) the number of days in the year in which the substitution occurred.

(2) Where a cable system carries a primary transmitter on a substitute basis, and also on some other basis, the system shall compute a DSE for that primary transmitter based on its carriage on a substitute basis, and shall also compute a DSE for that primary transmitter based on its carriage on the other basis. The DSE for that primary transmitter shall be the total of the DSE's thus computed.

(3) In computing DSE's, a cable system may round off to the third decimal point. If a DSE is rounded off in any case in a Statement of Account, it must be rounded off throughout the Statement.

(g) Computation of the Copyright Royalty Fee: Partially Distant Stations. A cable system located partly within and partly without the local service area of a primary television transmitter ("partially distant station") computes the royalty fee specified in Section 111(d)(2)(B), (II), (III), and (IV) of the Copyright Act ("DSE fee") by excluding gross receipts from subscribers located within that station's local service area from total gross receipts. A cable system which carries two or more partially distant stations with local service areas that do not exactly coincide shall compute a separate DSE fee for each group of subscribers who are located outside of the local service areas of exactly the same complement of distant stations. Computation of the DSE fee for each subscriber group is to be based on: (1) The total distant signal equivalents of that group's complement of distant stations, and (2) the total gross receipts from that group of subscribers. The copyright royalty fee for that cable system is (i) the total of the subscriber group royalty fees thus computed, or (ii) 0.675 of 1 percent of the system's gross receipts from all subscribers, whichever is larger.

(h) 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.

[7 U.S.C. 111, 702.]
ing period covered by the Statement of Account.*

* In the case of the first Statement of Account,追
(3) The designation "System," follows by: (A) Any business or trade names used to identify the business and operation of the system, unless these names have already been given under the designation "Owner"; and (B) any subscriber's address of the system, unless such address is the same as the address given under the designation "Owner." Business or trade names used to identify the business and operation of the system, and the system's mailing address, shall reflect the facts existing on the last day of the accounting period covered by the Statement of Account.

The designation "Area Served," followed by the name of the community or communities served by the system. For this purpose a "community" is the same as a "community unit," as defined in FCC rules and regulations.

(5) The designation "Channels," followed by the number of channels on which the cable system maintains a separate service to subscribers during the period covered by the Statement.

(6) The designation "Secondary Transmission Subscribers and Rates," followed by: (I) A brief description of each subscriber category for which a charge is made by the cable system for the basic service of providing secondary transmissions and by which a separate charge is made for secondary transmissions for a typical pay cable broadcasting system; (II) the number of subscribers to the cable system in each such subscriber category; and (III) the charge or charges made for secondary transmission service in each such subscriber category for the basic service of providing secondary transmissions. Standard rate variations within a particular category should be summarized; discounts allowed for advance payment should not be included. For these purposes (A) the description, the number of subscribers, and the charge or charges made for secondary transmission service in each such subscriber category should reflect the facts existing on the last day of the period covered by the Statement; and (B) each entity (for example, the owner of a private home, the resident of an apartment, the owner of an apartment house) which is charged by the cable system for the basic service of providing secondary transmissions shall be considered a separate subscriber.

The designation "Gross Receipts," followed by the gross amount paid to the cable system by subscribers for the basic service of providing secondary transmissions, as a result of secondary broadcast transmissions during the period covered by the Statement of Account. If the cable system maintains its revenue accounts on an accrual basis, gross receipts for any accounting period includes all such amounts accrued for secondary transmission service furnished during that period, regardless of when accrued: (I) Less the amount of any bad debts actually written-off during that accounting period, excluding bad debts for secondary transmission service furnished before January 1, 1978; (II) plus the amount of any previously written-off bad debts for secondary transmission service which were actually recovered during that accounting period, excluding bad debts for secondary transmission service furnished before January 1, 1978. If the cable system maintains its revenue accounts on a cash basis, gross receipts for any accounting period includes all such amounts actually received by the cable system during that accounting period, excluding amounts paid for secondary transmission service furnished before January 1, 1978; however, amounts received before January 1, 1978, for secondary transmission service furnished after that date, are to be considered as if they had been received during the accounting period in which the service covered by such payments was furnished.

The designation "Services Other Than Secondary Transmission Rates," followed by: (I) A brief description of each service for which a separate charge was made or established, other than secondary transmission service, which the cable system furnished or made available during the period covered by the Statement of Account, together with the amount of such charge. However, no information need be given concerning services furnished at cost. Specific amounts charged for pay cable programming need not be given if the rates are on a variable, per-program basis. (The fact of such variable charge shall be indicated.)

(9) The designation "Primary Transmitters: Television," followed by an identification of all primary television transmitters the signals of which are transmitted by the cable system during the period covered by the Statement of Account, other than primary transmitters of programs carried by the cable system. This designation shall describe the basis in certain circumstances (47 CFP 76.59d(2) and (4); 76.61(c)(2) and (4); and 76.63 referring to 76.61(c)(2) and (4)), carriage of that primary transmitter, transmitters, or a radio station, if one is involved, and the hours during which such carriage occurred during the period covered by the Statement of Account, together with the information listed below:

(i) The station call sign of the primary transmitter.

(ii) The name of the community to which that primary transmitter is licensed by the FCC (in the case of domestic signals) or with which that primary transmitter is identified in the case of foreign signals.

(iii) A designation as to whether that primary transmitter is a "network station," an "independent station," or a "noncommercial educational station.

(iv) If that primary transmitter is a "network station" a specification of the signals of that primary transmitter which is comprised of: (A) The signals transmitted to the part-time specialty programming rules of the FCC; or (B) pursuant to the late-night programming rules of the FCC; or (C) a part-time basis where the primary transmitter is not carried because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is legally required to carry; (d) and (e), (a) and (b), and (c). If the signals of that primary transmitter are carried on a part-time basis other than those listed in (a), (b), and (c).

(v) The information indicated by paragraphs (e)(9)(v) and (vi) of this section is not required to be given by any cable system whose gross receipts from subscribers for the period covered by the Statement of Account are 41,500 or less.

(vi) In the case of a cable system carrying a distant primary transmitter, the cable system shall be required to identify primary transmitters under FCC rules and regulations which permit carriage of special signals on a part-time basis in certain circumstances (47 CFP 76.59d(2) and (4); 76.61(c)(2) and (4); and 76.63 referring to 76.61(c)(2) and (4)), carriage of that primary transmitter, transmitters, or a radio station, if one is involved, and the hours during which such carriage occurred during the period covered by the Statement of Account, together with the information listed below:

(i) A statement as to whether the cable system carried the primary transmitter under FCC rules and regulations which permit carriage of special signals on a part-time basis in certain circumstances (47 CFP 76.59d(2) and (4); 76.61(c)(2) and (4); and 76.63 referring to 76.61(c)(2) and (4)), carriage of that primary transmitter, transmitters, or a radio station, if one is involved, and the hours during which such carriage occurred during the period covered by the Statement of Account, together with the information listed below:

(ii) The call sign of each primary transmitter carrying the signals of which were electronically pre-reception

* The requirement of this § 201.11(x)(9)(ix)(F) that the Statement include its dates and hours of carriage applies only to carriage on and after February 10, 1974.

** Error: line should read: "In case of the first Statement of Account."

*** Error: line should read: "In the case of the first Statement of Account."

The requirement of this § 201.11(x)(9)(ix)(F) that the Statement include its dates and hours of carriage applies only to carriage on and after February 10, 1974.