



ANNOUNCEMENT

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

NEW

FINAL REGULATIONS

CABLE COMPULSORY AND SATELLITE CARRIER STATUTORY LICENSES: ELECTRONIC PAYMENT OF ROYALTIES

The following excerpt is taken from Volume 56, Number 125 of
the Federal Register for Friday, June 28, 1991 (p. 29588)

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 91-9]

Cable Compulsory and Satellite Carrier Statutory Licenses: Electronic Payment of Royalties

AGENCY: Copyright Office, Library of
Congress.

ACTION: Final regulations.

SUMMARY: The Copyright Office amends
the regulations for statements of account
and filing requirements for sections 111
and 119 of title 17, United States Code.
Those sections provide, respectively, a
compulsory license for the secondary
transmission by cable systems of
broadcast signals, and a statutory
license for certain secondary
transmissions made by satellite carriers
to satellite home dish owners.

Such transmissions by cable systems
and satellite carriers require payment to
copyright owners of royalties, which,
under existing regulations, are remitted
to the Copyright Office by certified or
cashier's checks, or by money order. 37
CFR 201.11 (f) and (h); § 201.17(i) and (j)
(1990).

The new regulation provides the
additional option of electronic payment
by electronic funds transfer, which
should facilitate payment by cable
systems and satellite carriers, and
lessen the administrative burden of the
Copyright Office.

EFFECTIVE DATE: June 28, 1991.

FOR FURTHER INFORMATION CONTACT:
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Copyright Office, Library of Congress,
Washington, DC 20540. Telephone: (202)
707-8380.

SUPPLEMENTARY INFORMATION: Under
the cable compulsory license of section
111 of the Copyright Act, title 17 of the
United States Code, and the satellite
carrier statutory license of section 119 of
the Act, secondary transmissions by
cable systems of broadcast signals and
certain secondary transmissions by
satellite carriers to home dish owners
are subject to payment of royalties. The
royalty payments are remitted to the
Copyright Office semi-annually. The
Copyright Office invests the royalties in
United States Treasury securities,
pending ultimate distribution of the
royalties to entitled copyright owners by
the Copyright Royalty Tribunal.

The current Copyright Office
regulations permit cable systems and
satellite carriers to pay royalty fees by
certified or cashier's checks, or by
money orders. 37 CFR 201.11 (f), (g) and
(h); § 201.17 (i) and (j) (1990). The
Copyright Office is amending the
existing regulations to provide cable
systems and satellite carriers with the
additional option of paying royalties by
electronic funds transfer.

Electronic payment allows cable
systems and satellite carriers to
preauthorize their financial institutions
to debit their accounts, instead of having
to factor in mail or other delivery time.
Cable systems and satellite carriers will
have the ability to transfer funds until
the due date without incurring interest
assessments. Royalties will go directly
to the Department of Treasury,
streamlining the current process of
sending checks to the Copyright Office
to be sent later to Treasury. The
royalties will be invested in a more
timely manner, earning additional funds
for copyright owners. Finally, electronic
payment will lessen the Copyright
Office's administrative workload.

reducing paperwork and related
administrative costs, and improving
reporting and audit control of cable and
satellite royalty payments.

By these technical amendments to the
regulations, we simply make it possible
for cable systems and satellite carriers
to effect electronic payment of royalties.
The United States Treasury Department
specifies the governing procedures. The
Licensing Division of the Copyright
Office should be contacted for further
details about electronic payment of
royalties. Treasury regulations are
subject to change, but they generally
establish minimum amounts for
electronic transfer of funds.

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.¹

¹ 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. 706(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.

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, which establishes an optional procedure, will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Cable compulsory license, Satellite carrier license.

Final Regulations

In consideration of the foregoing, part 201 of 37 CFR is amended in the manner set forth below.

PART 201—(AMENDED)

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

Authority: Sec. 702, 90 Stat 2541, 17 U.S.C. 702; § 201.7 is also issued under 17 U.S.C. 408, 409, and 410; § 201.16 is also issued under 17 U.S.C. 116.

§ 201.11 [Amended]

2. In § 201.11 paragraph (f) is revised to read as follows:

(f) *Royalty fee payment.* All royalty fees may be paid by electronic transfer of funds, provided the payment is received in the designated United States²

Federal Reserve Bank by the filing deadline for the relevant accounting period. Except in the case of an electronic 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 a money order, payable to: Register of Copyrights; or a United States Treasury electronic payment.

§ 201.11 [Amended]

3. Section 201.11(g)(3)(iv)(B) is amended by removing the period and adding a semi-colon after the word "Copyrights" and inserting the phrase "or electronic payment."

3a. In § 201.11(h)(1) the third sentence is amended by removing the words "or money order" and replacing them with the words "money order, or electronic payment."

§ 201.17 [Amended]

4. In § 201.17 paragraph (i)(1) is revised to read as follows:

(i) *Royalty fee payment.* (1) All royalty fees may be paid by electronic transfer of funds, provided the payment is received in the designated United

States Federal Reserve Bank by the filing deadline for the relevant accounting period. Except in the case of an electronic 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 a money order, payable to: Register of Copyrights; or a United States Treasury electronic payment.

5. In § 201.17(i)(2) the third sentence is amended by removing the words "or money order" and replacing them with the words "money order, or electronic payment."

6. Section 201.17(j)(3)(iv)(B) is amended by deleting the period and adding a semi-colon after the word "Copyrights" and inserting the phrase "or an electronic payment."

Dated: June 14, 1991.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

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²Error; line should read: "received in the designated United States"