



ANNOUNCEMENT

from the Copyright Office, Library of Congress,
101 Independence Avenue, S.E., Washington, D.C. 20559-6000

REQUEST FOR INFORMATION

CABLE COMPULSORY LICENSE: SPECIALTY STATION LIST

The following excerpt is taken from Volume 63, Number 149 of the
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LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 98-6]

Cable Compulsory License: Specialty Station List

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for information.

SUMMARY: The Copyright Office is compiling a new specialty station list to identify commercial television broadcast stations which, according to their owners, qualify as specialty stations for purposes of the former distant signal carriage rules of the Federal Communications Commission (FCC). Lists were published in 1990 and in 1995, at which time we stated that the specialty station list would be revised approximately every three years. Accordingly, the Copyright Office is again requesting all interested owners of television broadcast stations that qualify as specialty stations, including those that previously filed affidavits, to submit sworn affidavits to the Copyright Office stating that the programming of their stations meets certain requirements under the FCC regulations in effect on June 24, 1981.

DATES: Affidavits should be received on or before October 5, 1998.

ADDRESSES: If sent by mail, submit the sworn affidavit to: David O. Carson, General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. If hand delivered, bring the document to: Office of the General Counsel, U.S.

Copyright Office, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE., Washington, DC 20559-6000.

FOR FURTHER INFORMATION

CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707-8380 or Telefax (202) 707-8366.

SUPPLEMENTARY INFORMATION:

Why Would a Broadcast Station Seek Specialty Station Status?

Specialty station status is significant in the administration of the cable compulsory license. 17 U.S.C. 111. The licensing system indirectly allows a cable operator to carry the signal of a television station classified as a specialty station at the base rate for "permitted" signals. See 49 FR 14944 (April 16, 1984); 37 CFR 256.2(c).

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What is a Specialty Station?

The FCC regulations in effect on June 24, 1981, 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).

How is a Station Deemed To Be a Specialty Station?

Under a procedure adopted by the Copyright Office in 1989, see 54 FR 38461 (September 18, 1989), an owner or licensee

of a broadcast station files a sworn affidavit attesting that the station's programming comports with the 1981 FCC definition, and hence, qualifies as a specialty station. A list of the stations filing affidavits is then published in the **Federal Register** in order to allow any interested party to file an objection to an owner's claim of specialty station status for the listed station. Once the period to file objections closes, we publish a final list which includes references to the specific objections filed against a particular station owner's claim. In addition, affidavits that are submitted after the close of the filing period are accepted and kept on file at the Copyright Office.

The staff of the Copyright Office, however, does not verify the specialty station status of any station listed in an affidavit.

How Does the Staff of the Copyright Office Use the List?

Copyright Office licensing examiners refer to the final annotated list in examining a statement of account where a cable system operator claims that particular stations are specialty stations. If a cable system operator claims specialty station status for a station not on the final list, the examiner determines whether the owner of the station has filed an affidavit since publication of the list.

How Often Has the Copyright Office Published Specialty Station Lists?

The Copyright Office compiled and published its first specialty station list in 1990, together with an announcement of its

¹ Originally, the FCC identified whether a station qualified as a specialty station, but after it deleted its distant signal carriage rules, it discontinued this practice. See *Malrite T.V. of New York v. FCC*, 652 F.2d 1140 (2d Cir. 1981), cert. denied, 454 U.S. 1143 (1982).

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). Its second list was published in 1995. 60 FR 34303 (June 30, 1995). With this notice, the Copyright Office is initiating the procedure for the compilation and publication of the third specialty station list.

Dated: July 28, 1998.
Marybeth Peters,
Register of Copyrights.

[FR Doc. 98-20737 Filed 8-3-98; 8:45 am]

BILLING CODE 1410-30-P

Does This Notice Require Action on the Part of an Owner of a Television Broadcast Station?

Yes, we are requesting 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 the publication of this notice in the **Federal Register**. There is no specific format for the affidavit; however, the affidavit must confirm that the station owner believes that the station qualifies as a specialty station under the 1981 FCC rule.

Notwithstanding the above, any affidavit submitted to the Copyright Office within the 45-day period prior to publication of this notice need not be resubmitted to the Office. Any affidavit filed during this 45-day period shall be considered timely filed for purposes of this notice.

What Happens After the Affidavits Are Filed With the Copyright Office?

Once the period for filing the affidavits closes, we will compile and publish in the **Federal Register** a list of the stations identified in the affidavits. At the same time, we will solicit comment from any interested party as to whether or not particular stations on the list qualify as specialty stations. Thereafter, a final list of the specialty stations that includes references to any objections filed to a station's claim will be published in the **Federal Register**.

In addition, affidavits that, for good cause shown, are submitted after the close of the filing period will be accepted and kept on file at the Copyright Office. Affidavits received in this manner will be accepted with the understanding that the owners of those stations will resubmit affidavits when the Office next formally updates the specialty station list. An interested party may file an objection to any late-filed affidavit. Such objections shall be kept on file in the Copyright Office together with the corresponding affidavit.