

IMPORTANT ALERT

Attention All Commercial TV Stations: *REMINDER for Filing Cable Copyright Royalty Claims by August 1, 2016 Deadline*

It's time again to file your claim for cable copyright royalties. In order to receive any royalties, your claim must be filed **between July 1 and August 1 with the Copyright Royalty Board.**

IMPORTANT POINTS:

1. The Copyright Royalty Board has provided an **OFFICIAL CLAIM FORM** that must be used by all claimants.

2. You are strongly urged to **file your claim electronically using the online form** (<http://www.loc.gov/crb/cable/>).

You may still file claims by certified mail or by hand delivery, but there are **SPECIAL PROCEDURES** for hand delivered claims.

Background:

What are Cable Royalties?

Under the Copyright Act, a cable system must pay "compulsory license" royalties in order to carry distant television signals. The royalties, which systems pay twice a year, are used to compensate the owners of copyrighted works on the distant signals. After each year's royalties are collected, proceedings are held to divide them among the copyright owner groups who claim a share. Ultimately, *the royalties are awarded **only** to those who have filed a formal claim with the Copyright Royalty Board.*

Should You File a Claim?

Every television station that produced and aired at least one program of its own **and** was carried as a distant signal by any cable system in 2015 should file a claim in July 2016. (If you weren't

carried as a distant signal (i.e., by a cable system **outside** your DMA in a community where your station is not significantly viewed), you may still file if you own a program that aired on another station that was carried as a distant signal.)

The annual royalty fund totals over \$200 million. As a service to its members and the broadcast industry, NAB will seek a share of the royalties on behalf of all U.S. commercial television stations that authorize NAB to represent them.

In order to be eligible to collect a share of these royalties through NAB, a broadcast station must (1) file its own claim *directly* with the Copyright Royalty Board, and, after the claim is filed, (2) execute the authorization form NAB will **later** send to the station, and (3) provide certain programming information NAB will **later** request. This memo explains only step 1, namely how to file a claim.

Remember, if you do not file a timely claim (***no later than August 1, 2016***) you cannot collect 2015 royalties. In the past, courts have allowed the rejection of claims that arrived only a day late, despite the claimants' evidence that the rejection deprived them of over \$10 million in royalties. **NAB does NOT file this claim for you.**

1.

What Your Claim Must Include:

Do NOT use a claim form from a prior year! If you file online, you will automatically use the

correct form. The following are additional instructions about some of the information that must be entered, organized by the item numbers on the forms. PLEASE NOTE: The item numbers differ between the printable and online forms for single claims, but the instructions for the contents of the respective sections of the forms are the same. On the CRB's website, you will be able to fill the information in electronically on either the online or the printable form.

IMPORTANT: Note the following **GUIDANCE about how to avoid having your timely claim excluded:**

The Copyright Royalty Board treats each corporate entity as a separate claimant. If you file a separate claim for each station in your group, but the name of the licensee is the same, the Board will disregard all but one of the claims. So it is important to include the station call sign in the name of each Filer (Item 1 below): **"Company Name, licensee of WAAA."**

If, instead, you file a single claim for multiple stations all licensed to the same single company name (including, if applicable, digital multicast streams that are carried separately as distant signals and air station-produced programs), you should list all the station call signs in the General Statement (Item 4 below): **"All station-produced programming broadcast by WAAA, WAAA-DT2, WBBB, WCCC ..."**

If you choose to file one claim for multiple stations licensed to

different subsidiaries or entities, you MUST file a **Joint Claim**, following the separate instructions in 1.b. below.

a.

Single-Entity Claims:

Item 1 - Filer's Name and Address. The Filer's name will in most cases be the legal name of the station licensee, followed by the words "licensee of [station call sign]." **NOTE IMPORTANT REQUIREMENT: Do not list the parent company or any other entity, if the claim covers a single station.** A claim filed only in the name of a single station owner will not qualify other co-owned stations to receive royalties. Each must file its own. *If you want your claim to cover multiple station entities, you must instead file a Joint Claim, as described below.*

The form requires contact information for the *entity* filing the claim (phone, fax, and email) to be entered in Item 1.

Item 2 (Online) / Item 3 (Printable) - Contact Person. The name and contact information (phone, fax, and email, if any) for an *individual* contact person must be entered. The Copyright Royalty Board will direct all inquiries about the claim form to this individual.

Item 3 (Online) / Item 2 (Printable) - Copyright Owner. You must fill in this item. If the copyright owner of the programs is the station licensee itself, you must enter "**SAME**" in the space. Otherwise, if you know that a different entity is the actual copyright owner of the locally produced programs on the station, provide the specific name and address of the copyright owner entitled to claim the royalty fees.

Item 4 - General Statement (Nature of works). The general statement of the nature of the copyright owner's works for which the claim is being made should be as follows, if the claim is for a single station:

"All station-produced programming broadcast by [station call sign] and the station's entire broadcast day as a compilation."

If the claim is for multiple stations owned by a single owner, the statement should be as follows:

"All station-produced programming broadcast by [stations' call signs] and the stations' entire broadcast day as a compilation."

Item 5 - Example A. The example of distant cable carriage for which you file your claim has four parts: (a) the title of one of the copyright-owned programs broadcast on the station (e.g., "The Five O'Clock News"), (b) call sign and city and state of license of your station, (c) a single date during 2015 when the program was broadcast, and (d) the name of and community served by a cable system that carried the station *as a distant signal* and retransmitted that particular program.

The cable system used as an example of distant carriage must be (1) outside the station's DMA, (2) at least 35 miles from the station's city of license, (3) outside the station's noise-limited contour, and (4) in a county where the station is not "significantly viewed."

You should NOT provide a Music example (Example B) unless the station itself is the copyright owner of a musical composition as well as television programs.

Claimant Signature. In most cases, because the station licensee is the copyright owner of the station-produced programs, the person actually signing the original claim (or filling in his or her name if it is being filed online) will be an officer of the station licensee or someone who has authority to file the claim on behalf of the station. Remember that if the person or entity actually filing the claim is someone other than the claimant entitled to receive royalties, the full legal name and address of the person must be provided in Item 2, in addition to the Item 1 information about the claimant.

In the online form, by clicking on the Submit Claim button at the end, you will be deemed to have "signed" the form for purposes of being held liable for the statements made therein.

The claim forms include a Declaration confirming that the person filing the claim is the copyright owner or the owner's representative and is authorized to file the claim. False declarations will subject the filer to criminal penalties.

b.

Joint Claims:

Most of the basic requirements for joint claims are the same as those for single-station claims, but there are several important differences.

Item 3. For a claim being filed on behalf of multiple station entities, the names and addresses of the individual station entities/copyright owners must be listed in Item 3. You may, or if you are filing on behalf of more than ten owners you must, instead attach a list of the joint claimants at the designated space on the claim form. For the online form, the attachment must

be an electronic file in one of the particular formats specified in the instructions.

Item 4. If you do not use the generic version of the general statement suggested on the claim form itself (“**news and other station-produced programming**”), you should use the following:

“All station-produced programming broadcast by [station call signs] and the stations’ entire broadcast days as compilations.”

Item 5. Only a single example of distant carriage is technically required, but you may also provide a separate “Optional example” for an additional station included in the joint claim.

Claimant Signature. The Filer, which is listed in Item 1, may only file a joint claim if authorized, and must certify under penalty of law that it is “**duly authorized by the copyright owners identified herein to make this filing on their behalf.**”

2.

Where and When to File:

1. Filing Online: The Copyright Royalty Board posts links to the claim forms on its website beginning July 1, 2016, in a format that allows them to be completed and submitted online, at <http://www.loc.gov/crb/cable/>. The claim forms will not permit submissions that fail to provide all information in the required format. No other form of claim will be accepted online. You must provide an e-mail address if you file online, because the Copyright Office will

send an e-mail confirming that your claim has been received.

BE SURE TO PRINT OUT AND SAVE the Confirmation Page generated when you submit your claim, and/or the email acknowledgement that you receive from the Copyright Royalty Board. These are the only evidence the Board will accept if a question later arises about whether you filed a timely claim.

NOTE: The online claim must be submitted by no later than **5:00 p.m. E.D.T.** on the final deadline, but NAB strongly recommends that you file before then, to avoid any possible technical problems.

2. Filing by Hand Delivery: Links to the printable claim forms are also posted at <http://www.loc.gov/crb/cable/>. There are also **special instructions** for hand deliveries due to the ongoing security measures on Capitol Hill:

Private Party. If your claim is filed by an employee of your Washington representative, it can be hand delivered (weekdays 8:30 a.m. to 5:00 p.m.) to the Public Information Office in Room 401 of the Madison Building, and the envelope must be addressed as follows:

Copyright Royalty Board
Library of Congress
James Madison Memorial
Building, LM-401
101 Independence Ave., S.E.
Washington, D.C. 20559-6000

Commercial Courier Service. If your Washington representative uses a commercial courier service instead of an employee to hand-deliver your claim, the envelope must be **addressed** to a different room number, as follows:

Copyright Royalty Board
Library of Congress
James Madison Memorial
Building, LM-403
101 Independence Ave., S.E.
Washington, D.C.

and the courier must be **sent to the following address** to deliver the envelope (weekdays 8:30 a.m. to **4:00 p.m.**):

Congressional Courier
Acceptance Site
2nd and D Streets, N.E.
Washington, D.C.

NOTE: An envelope hand-delivered by either method must be prominently labeled “**ROYALTY CLAIM.**”

3. Filing by Mail: The Copyright Office continues to experience mail disruptions due to security pre-screening of mail, and recommends using one of the other filing methods instead. If you file by mail, your claim must be mailed to the Copyright Royalty Board with an official U.S. Postal Service postmark date (**meters don’t count**) of no earlier than July 1, 2016 and no later than August 1, 2016. Claims received after August 1 will be rejected unless you can prove timely mailing. The Office will accept a white Certified Mail Receipt (PS Form 3800) that has been stamped with a **U.S. Postal Service** postmark as proof of timely filing. It will not accept any other form of proof. No faxed claims will be accepted. Send your claim directly to:

Copyright Royalty Board
P.O. Box 70977
Southwest Station
Washington, D.C. 20024

As with hand delivered claims, the envelope should be prominently labeled “**ROYALTY CLAIM.**”

Note that **NO Federal Express, UPS, or similar** delivery will be accepted.

3.

Some Final Reminders:

1. Your claim must be filed with the **Copyright Royalty Board** at the U.S. Copyright Office.

2. For stations that were carried by **satellite carriers** as well as cable systems during 2015, it is critical that you use the proper form. Claims using the cable claim form **will not be accepted** for satellite royalty purposes, and vice versa.

3. If filing electronically, you must follow all technical and other requirements, or risk having your claim rejected.

4. If filing a printable claim form, by mail or messenger, you must file an **original and one copy**.

5. If you mail your claim, you must use **Certified Mail**, have the mailing receipt postmarked by the Post Office, and save the receipt in order to be able to prove timely filing.

6. If you file electronically, you must print out and save the **Confirmation Page** or the **email from the Board** in order to be able to prove timely filing. The Board will accept no other form of proof.

7. If the legal name or address of the filer of the claim or of the copyright owner (if different) changes after filing, the Copyright Royalty Board must be notified.

Questions

If you have any questions, call NAB's outside counsel, John Stewart, of Crowell & Moring LLP

in Washington, at 202 624-2685, or NAB's Associate General Counsel Suzanne Head at (202) 429-5302.

NAB's Counsel Memos are intended to serve as a source of general information on legal issues of interest to the broadcasting industry. Broadcasters seeking information on how the principles discussed in a Counsel Memo apply to their specific circumstances should seek the advice of their own attorneys.