

# IMPORTANT ALERT

## Attention All Commercial TV Stations: ***REMINDER About Important Changes in the Process for Filing Cable Copyright Royalty Claims by July 31, 2019 Deadline***

It's time again to file your claim for cable copyright royalties. In order to receive any 2018 royalties, your claim must be filed **between July 1 and July 31 with the Copyright Royalty Board.**

But as was true last year, there are **Big Changes** in the process.

### **REMINDER -- IMPORTANT CHANGES:**

1. As of 2017, filing a claim is now a two-step process:

- If you did not do so last year, **BEFORE** you file a claim, you may **REGISTER** with the Copyright Royalty Board's new eCRB system.
- **AFTER** your registration has been accepted by CRB Staff, you will be able to file your claim using the new system.

2. The claim forms themselves have been streamlined, and **no longer require a specific example of distant retransmission.**

You are strongly urged to file your claim using the new system. (If you must instead file hard-copy claims using the printable online form, you should seek guidance regarding special certified mail or hand delivery procedures that must be followed.)

### **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 (i.e., by a cable system **outside** your DMA in a community where your station is not significantly viewed) in 2018 should file a claim in July 2019.

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. More information on Steps 2 and 3 will be provided later.

**Remember**, if you do not file a timely claim (*no later than July*

*31, 2019*) you cannot collect 2018 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.**

### **First, Register:**

**When?** If you have not already done so, you should register as soon as possible. The process of having your registration accepted by the CRB, which precedes filing your claim, may take a day or more. It should not be put off until the end of the filing period.

**How?** The process is fairly simple:

- Go to <https://www.crb.gov/>
- Click on the "eCRB" link under "Categories" on the left side of the CRB's home page. That will take you to a secure page, <https://app.crb.gov/>
- Review the System Notice pop-up and click "Agree"
- Click on the "Register" tab at the top of the page
- In the drop-down menu in the "Register as:" box, click on "Claims Filer" (or if you are legal counsel to the claimant, click on "Attorney")

- Complete the information in each of the boxes marked with a “>” (Note that your complex password must meet a number of criteria that are listed there, and also must not include repeated characters. You will be given a number of chances to enter a qualifying password if you miss any of the criteria.)
- Click on “Agree and Submit Registration”
- Receive an automatic email from the CRB acknowledging receipt of your submission, and click on the confirmation link in the email.

**NOTE** that once you complete the registration and confirmation, your submission will be reviewed by CRB staff. Your account will **not** be activated until after you receive a further email advising you that the registration has been accepted and activated.

**2.**

**Then, File Your Claim:**

Once you register, you may file as many online claims as you like during July (and in future years).

**Do NOT use a claim form from a prior year!** The claim form has been substantially streamlined, and does not require all of the information that has been part of the claim in the past.

**When?** You must file between July 1 and 11:59 PM Eastern Time on July 31, 2019. If the CRB’s servers are having problems at the very end of the filing period, and you are unable to file until after midnight, your claim will be rejected. And again, be sure to

register in enough time to receive your activation (which may again be delayed later in the month) before the final deadline.

**How?** You should be able to file a cable claim either by going to (<https://app.crb.gov/>) and signing in with your registration credentials, then clicking on “Submit a Cable Claim,” or if you must submit your claim in hard copy, by going to (<https://www.crb.gov/claims/>), clicking on “Cable,” and opening the form for printing out and delivering to the CRB. If you must file a hard copy, it is critical to follow the special mail or hand delivery procedures in CRB Rule 301.2(a) or (b), and proper proof of delivery must be retained.

**What?** The new claim forms are user-friendly and should be fairly clear. They ask for information about the Filer, a Contact Person, and the Copyright Owner. They then ask for a statement of the nature of the claimant’s programs. They then require a certification of the right of the filer to make the claim and the truth of the information provided. Each of these will be described below.

An advantage of the new eCRB system is that the claims will be made available online, the Filer will have access to them on his or her eCRB Dashboard, and amendments can be filed through eCRB as well.

**Single Claim or Joint Claim?** The Copyright Royalty Board treats each corporate entity as a separate claimant. If multiple stations in your group are licensed to the same corporate entity, you may file a single claim covering all of their programs. The claim may be filed by either the station licensee entity, if it has registered, or by the parent company on behalf of that entity (in

which case the parent company would be the Filer and the licensee entity would be the Copyright Owner). In that case, the claim could identify the different stations included within the single claim by identifying all the station call signs in the General Statement (Item 4 below), as in, for example: “**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**, which is essentially the same except you must provide a list of all the corporate entities covered by your claim.

**a.**

**Single-Entity Claims:**

**Item 1 - Filer’s Name, Address, Phone, and Email.** The Filer will presumably be the registrant, which has authority to file the claim on behalf of the Copyright Owner. The two may be the same, unless a parent company is filing on behalf of the station entity.

Remember that 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 - Copyright Owner.** You must fill in this item. If the copyright owner of the programs is the Filer, you may check the box indicating “same as filer’s information.” 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 3 – Primary Contact Information.** The name and contact information (phone, fax, and email, if any) for an *individual* contact person must be entered. It can be the same as the Filer. The Copyright Royalty Board will direct all inquiries about the claim form to this individual.

**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].”**

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

**“All station-produced programming broadcast by [stations’ call signs].”**

**Note: IT IS IMPORTANT TO USE THIS PRESCRIBED LANGUAGE AND TO LIST ALL STATION CALL SIGNS COVERED BY THE CLAIM.**

**Filer Declaration.** In the online form, by clicking the “Agree and Submit” 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, and that the information in the claim is correct. 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.

**Claimant List.** 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 this section. If you are filing on behalf of more entities than the number of spaces on the form, you must attach a list of the joint claimants, as an Excel spreadsheet, at the designated space on the claim form.

**Item 4.** The general statement of the nature of the copyright owner’s works for which the claim is being made should be as follows:

**“All station-produced programming broadcast by [station call signs of all entities covered by 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 ***“The participants listed below have duly authorized the representative named herein to file this claim on their behalf.”***

**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 retransmitted as distant signals by **satellite carriers** as well as cable systems during 2018, it is necessary to file a separate claim, using the proper form, to qualify for receiving satellite royalties.

3. It will be prudent for you to print out and save the **Confirmation Page** or the **email from the Board** acknowledging receipt of your electronic claim, in order to be able to prove timely filing. The Board has in the past accepted no other form of proof.

4. If the legal name or address of the Filer, the Contact Person, or the Copyright Owner changes after filing, the Copyright Royalty Board must be notified, in the form of an amendment to the claim.

**Questions**

If you have any questions, contact the CRB’s new eCRB user support line, at (703) 841-6386, or [eCRBSupport@egov.com](mailto:eCRBSupport@egov.com), or Ann Mace, at Crowell & Moring in Washington, at (202) 624-2711 or [amace@crowell.com](mailto:amace@crowell.com).

*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.*