

## Copyright adjustment

Copyright Office of Library of Congress issued new "interim" regulations this week for cable operators to file copyright payments for the first accounting period for 1986 in light of the District Court's ruling July 31 that cable operators have been overpaying their copyright royalty fees.

Judge June L. Green, ruling in a case brought by the National Cable Television Association and Cablevision Co., held that the Copyright Office's interpretation was in error in defining gross receipts as including all fees for nonbroadcast services—for which cable operators have already paid—if they are provided on a tier with broadcast signals. Green also directed the copyright office to limit the definition to revenues received for the retransmission of local and distant broadcast signals, regardless of the tier of service involved (BROADCASTING, Aug. 4). (The Motion Picture Association of American is appealing the decision and asked for stay, but Green denied the request. The federal appeals court also rejected MPAA's request for a stay [BROADCASTING, Aug. 25].)

The copyright office is holding off on redefining gross receipts until MPAA's appeal

is settled. In the meantime, cable operators are expected to go ahead and allocate gross receipts by a variety of methods. Because the copyright office says it will be "impossible" to evaluate which methods are acceptable until the litigation is resolved, it is issuing a new reporting form, "Statement of Account," to cable systems. This will enable the office to keep track of the allocations. Cable systems will be asked whether they allocated gross receipts in calculating their royalty fees for the accounting period, and if so, the systems also must report the figure for gross receipts as calculated under the old rule. For systems that allocate gross receipts, the new regulations also require the maintenance of records explaining "each step of the method followed by the system operator in computing the gross receipts reported in the Statement of Account."

The copyright office also addressed the issue of refunds to which cable operators will be entitled if Green's decision is upheld. The office opted to put that matter on hold until the court acts. "The current situation creates considerable confusion which could easily lead to chaos for the Copyright Office in receiving and processing requests for refund based on a court decision that may be altered or overturned on appeal, and which if upheld requires a new rulemaking proceeding to revise the regulation at issue."

According to attorney Peter Feinberg of Pepper & Corazzini, royalties might be cut by 50% in some situations depending on the number of channels on a system. One method cable operators might use to file royalty payments is to pro rate the number of broadcast signals over the total of number of services delivered on basic, he said. Or a cable system might allocate royalties on the basis of its costs in providing services, Feinberg noted.

## HBO-MGM deal

Home Box Office and MGM/UA Communications (formerly United Artists Corp.) announced last week a new long-term agreement under which HBO and Cinemax may license up to 72 existing and future MGM/UA film titles. The deal is similar to ones HBO signed with Warner Bros. and Lorimar-Telepictures, which amount to quasi-exclusive deals, because Showtime-The Movie Channel Inc. has turned down offers from all three programmers to license films on a nonexclusive basis. Films included in MGM/UA deal are "Rocky IV," "Youngblood," "To Live and Die in L.A.," "Running Scared" and "Poltergeist II." Yet-to-be-released theatricals included in the package, the parties said, are the next James Bond film, "The Living Daylights," with Timothy Dalton; the new Mel Brooks film, "Solarbabies"; "Bobo," with Howie Mandell and Christopher Lloyd; "Shanghai Surprise," featuring Madonna and Sean Penn; "Dead of Winter" with Mary Steenbergen and Roddy McDowall, and "Where

the River Runs Black," with Charles Durning.

## Money supply

C-SPAN will need up to \$2 million a year over the next five years to cover the cost of two transponders (one for C-SPAN II and one for backup) and to offset the expected loss of \$800,000 a year in revenues from a transponder subcarrier leased to StudioLine.

According to C-SPAN Chairman Brian Lamb, the extra cash will come from increases in the affiliates fees of all large operators (more than 200,000 subscribers) of between a half cent and one cent per subscriber per month.

In fiscal 1987, C-SPAN has an operating budget of around \$8 million, but, when capital expenditures are included, will end up spending \$9 million.

StudioLine, a Reston, Va.-based pay audio service, paid C-SPAN \$800,000 a year to lease subcarriers of C-SPAN's Galaxy I transponder, which it used to distribute its multiple audio channels. Earlier this year, StudioLine's principal backer, Western Communications, withdrew its support. As a result, StudioLine is now on the verge of bankruptcy.

C-SPAN's satellite troubles began when C-SPAN II (the service that telecasts the Senate proceedings) was bumped from its pre-emptible transponder on Satcom III-R to make way for The Weather Channel, whose protected transponder on the satellite failed. C-SPAN II is temporarily encased on a transponder on Satcom IV, but will move off when the Senate adjourns in October because the cost of staying on the transponder is too high and because it doesn't serve Hawaii and Alaska.

C-SPAN is looking for two transponders, one to act as a permanent home for C-SPAN II and one to serve as a backup to C-SPAN and C-SPAN II. C-SPAN is now distributed over a preemptible transponder on Galaxy I, and a failure of one of the other transponders on the satellite could bump C-SPAN off its transponder.

C-SPAN feels that the three cable birds (Galaxy I, Satcom III-R and Satcom IV) are out of the running because of their high cost. So, it is considering American Satellite Co.'s ASC I and AT&T Telstar 303, which, because of their proximity to the Satcom III-R in the orbital arc, can be accessed by downlinks equipped with dual-feeds. C-SPAN is also seeing if it can generate interest in aggregating C-SPAN II and some other cable services on an entirely different satellite and creating a fourth cable satellite. Such an effort would require the cooperation of cable operators, since they would have to install another dish.

## Converter standards

In further notice of proposed rulemaking, the FCC has proposed to adopt single set of standards for cable converters and decoders. Under current rules, cable terminal de-

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