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Copyright Royalty Board

37 CFR Part 386

[Docket No. 2011- 10 CRB Satellite COLA]

Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (“COLA”) of 3.5% in the royalty rates paid by satellite carriers under the satellite carrier compulsory license of the Copyright Act. The COLA is based on the change in the Consumer Price Index from October 2010 to October 2011.

DATES: *Effective Date:* January 1, 2012.

Applicability Dates: These rates are applicable for the period January 1, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist.

Telephone: (202) 707-7658. E-mail: crb@loc.gov.

SUPPLEMENTARY INFORMATION: The satellite carrier compulsory license establishes a statutory copyright licensing scheme for the retransmission of distant television programming by satellite carriers. 17 U.S.C. 119. Congress created the license in 1988 and has reauthorized the license for additional five-year periods, most recently with the passage of the Satellite Television Extension and Localism Act of 2010, (“STELA”), Public Law 111-175.

The Copyright Royalty Judges adopted as final the rates for the section 119 compulsory license for the period 2010-2014 after publication in the **Federal Register** of

the rates, as proposed by Copyright Owners and Satellite Carriers,¹ yielded no objections. See 75 FR 53198 (August 31, 2010). Section 119(c)(2) requires the Judges annually to adjust these rates “to reflect any changes occurring in the cost of living adjustment (for all consumers and for all items) [“CPI-U”] published * * * at least 25 days before January 1.” *Id.* Today’s notice fulfills this obligation.

The change in the cost of living as determined by the CPI-U during the period from the most recent index published before December 1, 2010, to the most recent index published before December 1, 2011, is 3.5%.² Rounding to the nearest cent, the royalty rates for the secondary transmission of broadcast stations by satellite carriers for private home viewing and viewing in commercial establishments are 26 cents and 53 cents, respectively.

List of Subjects in 37 CFR Part 386

Copyright, Satellite, Television.

Final Regulations

For the reasons set forth in the preamble, part 386 of title 37 of the Code of Federal Regulations is amended as follows:

PART 386 – ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

1. The authority citation for part 386 continues to read as follows:

Authority: 17 U.S.C. 119(c), 801(b)(1).

¹ Program Suppliers and Joint Sports Claimants comprised the Copyright Owners, while DIRECTV, Inc., DISH Network, LLC and National Programming Service, LLC, comprised the Satellite Carriers.

² The most recent CPI-U figures are published in November of each year and use the period 1982-1984 to establish a reference base of 100. The index for October 2010 was 218.711, while the figure for October 2011 was 226.421.

2. Section 386.2 is amended by revising paragraphs (b)(1)(iii) and (b)(2)(iii) to read as follows:

§ 386.2 Royalty fee for secondary transmission by satellite carriers.

* * * * *

(b) * * *

(1) * * *

(iii) 2012: 26 cents per subscriber per month;

* * * * *

(2) * * *

(iii) 2012: 53 cents per subscriber per month;

* * * * *

Dated: November 23, 2011

James Scott Sledge,
Chief U.S. Copyright Royalty Judge.

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