



A Professional Limited Liability Company  
307 North Michigan Avenue, Suite 1020  
Chicago, Illinois 60601  
Telephone: 312-372-3930  
Facsimile: 312-372-3939

**UPDATE**  
**December 20, 2007**

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**Important Notice from the Copyright Office**

The Copyright Office issued an important notice about SA1-2 Short Form Statement of Account forms which were mailed to cable operators last week. The SA1-2 Forms have improperly encoded barcodes printed in Space B on the front page. The Copyright Office will be mailing new barcode labels to cable operators. When you receive the new barcode label, you should affix the new barcode label to your statement of account form directly over the top of the original barcode in Space B. SA-3 Long Form Statement of Account forms have correct barcodes and do not require a new barcode label.

Access the Copyright Office notice at <http://www.copyright.gov/licensing/index.html>.

Between January 1, 2008 and March 3, 2008, cable operators must file with the Copyright Office their Statement of Account forms (SA1-2 or SA3) and pay any royalty fees due for the July 2007 – December 2007 accounting period. The following forms apply:

- **SA1-2 Short Form.** For use by cable television systems with semiannual gross receipts of less than \$527,600.
- **SA3 Long Form.** For use by cable television systems with semiannual gross receipts of \$527,600 or more.

Copyright royalty fees must be remitted by electronic payment. If your company has questions about Copyright forms, please call Chris Cinnamon or Scott Friedman at (312) 372-3930.

**Numerous Provisions of Pole Attachment Agreement Found Unreasonable**

The Enforcement Bureau (“EB”) recently issued an Order in which it found numerous provisions of North Pittsburgh Telephone Company’s (“NPTC”) pole attachment agreement unreasonable:

- **An attachment limit of one cable per pole.** The attachment limit unreasonably restricted overlashing, in violation of long-standing FCC policy. Moreover, the provision was unreasonable because the Pole Attachment Act permits regulated pole owners to limit attachment rights only for reasons of insufficient capacity, safety, reliability, and generally applicable engineering purposes.
- **A blanket prohibition on boxing.** This provision was discriminatory because NPTC itself used boxing on its poles.
- **No requirement to provide estimate for make-ready survey.** The NPTC agreement was unreasonable because it obligated the operator to pay for make-ready surveys, but did not require NPTC to first provide the operator with an estimate of survey costs.

- **License requirement for third-party overlashing.** In violation of FCC precedent, the agreement prohibited the operator from allowing third parties to overlash without obtaining a license from NPTC. The EB stated: “The Commission has made clear that ‘neither the host attaching entity nor the third party overlasher must obtain additional approval from or consent of the utility for overlashing other than the approval obtained for the host attachment.’”
- **30-day application period for service drops.** In violation of FCC precedent, the agreement required the operator to apply 30 days in advance before attaching or removing a service drop. The EB noted that “attachments to drop poles are adjuncts to attachments that are approved in the normal application process, and thus a utility may require notice, but not prior approval.”
- **Insufficient notice period for removal of attachments.** In “patent[ ] conflict” with FCC regulations, the agreement terminated the operator’s right to attach at the earlier of 60 days following notice of NPTC’s decision to abandon, remove or relocate a pole, or on the scheduled date of abandonment removal or relocation. FCC regulations require pole owners to give 60 days’ written notice prior to “removal of facilities or termination of any service to those facilities...”
- **\$250 unauthorized attachment penalty.** In “direct[ ] conflict[ ]” with FCC precedent, the agreement assessed a \$250 “penalty charge” for each unauthorized attachment in addition to back attachment fees. The EB found that FCC precedent prohibited penalties for unauthorized attachments above and beyond compensatory damages where there was no specific reason to support punitive damages.

The provisions contained in NPTC’s pole attachment agreement are not unique. Many FCC-regulated pole owners continue to demand terms and conditions that conflict with FCC regulations and orders. If your company has questions about the terms and conditions contained in a pole attachment agreement, please call Nicole Paolini-Subramanya or Emily Denney at (312) 372-3930.

### **FCC Releases updated EAS Handbooks**

The FCC recently released its 2007 Emergency Alert System (EAS) Handbook for Cable Systems. You can download the handbook at the FCC’s EAS website, [www.fcc.gov/pshs/services/eas/handbooks.html](http://www.fcc.gov/pshs/services/eas/handbooks.html).

The Handbook includes in summary form the actions to be taken by personnel upon receipt of an EAN, an EAT, tests, or State and Local Area alerts. A copy of the Handbook must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions. The handbook also contains useful information on your EAS reporting, testing, and monitoring obligations.

If you have questions about EAS requirements, please call Emily Denney or Nicole Paolini-Subramanya at 312-372-3930.

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Please visit our website at [www.cinnamonmueller.com](http://www.cinnamonmueller.com) to learn more about our lawyers and practice. You can reach Cinnamon Mueller at 312-372-3930. *This update is provided by the law firm of Cinnamon Mueller. The document is intended for informational purposes only as a service to clients of Cinnamon Mueller and to the members of the American Cable Association. It is not intended to provide specific legal advice or to substitute obtaining appropriate legal counsel. We encourage you to consult with counsel to address special compliance issues and for assistance in negotiating or handling any such matter referred to in the update.*