



## Commercial HEVC Content Licensing Q & A

Updated October 2016

### **1. What types of content distribution require a license?**

In general, a license is required for the distribution of any HEVC-encoded content that involves a fee to the end-user/consumer. Such content distribution basically falls into one of three Royalty-Bearing Categories:

- **Title-by-Title:** Content sold to an end-user in connection with the end-user's request for the specific content represented by the title. An example of this would be renting an individual movie from an Internet content distributor, a cable company, or a satellite TV service.
- **Subscription:** A service that provides paid access to a library of content. An example of this would be a cable subscription, satellite subscription, or Internet content provider subscription.
- **Digital Media Storage:** Content purchased for consumption via some kind of digital media storage. An example would be a Blu-Ray disc or a hard drive containing HEVC-encoded movies.

### **2. Are there any types of content distribution for which royalties are waived?**

Yes, royalties are waived for the life of the HEVC Advance Patent Pool for the following types of content distribution:

- **Public Service Broadcasting:** The royalty is waived entirely for any non-profit public service broadcasting, all the way through to the end-user including any redistribution by, for example, a cable company. An example would be PBS in the United States.
- **Free-to-User Commercial Broadcasting:** The royalties are waived for commercial broadcasting where there is no fee charged to the end-user. An example of this would be 100% ad-funded commercial broadcasting. This waiver, however, is different from the public service broadcast waiver described above in that it does not cover redistributions where there is a charge to the end-user. For such redistributions involving a fee to the end-user, royalties would be paid by the redistributor, not the broadcaster.
- **Free-to-User Internet Content Distribution:** The royalties are waived for Internet content distribution that is free to the end-user.

### 3. What are the Fees for the Royalty-Bearing Categories?

The rate structure<sup>1</sup> for Region 1 is essentially the same for all three categories and is shown below. Region 2 rates would include a 50% discount.

- Title-By-Title:
  - 2.5¢ per title purchased
- Subscription (Per Subscriber/Month):
  - 2016-17: 0.5¢
  - 2018-19: 1.5¢
  - 2020+: 2.5¢
- Digital Media Storage:
  - Optical Disks: 2.5¢ per disk
  - Other Storage Devices: 2.5¢ per title

### 4. Are there any Caps on the Royalties?

Yes, there are annual Category Caps and an annual Enterprise Cap, as follows:

- Category Cap: There is a \$2.5MM Annual Cap for each Category. This means that no content distributor will pay more than \$2.5MM for any Category in any given year.
- Enterprise Cap: There is a \$5MM Annual Enterprise Cap. This means that no content distributor will pay more than \$5MM in any given year for all of its content distribution and the content distribution of all of its Affiliate(s), regardless of how many categories apply, and regardless of the number of Affiliates. Affiliates of a content distributor are entities for which the distributor has more than 50% ownership or voting interest.

For example, a cable company that also owns a sports network or a broadcaster, each of which offers HEVC content through subscriptions to linear channels (Subscription Category), Title-by-Title sales for VOD services (Title-by-Title Category), and sales of Blu-Ray disks (Digital Media Storage Category) would only pay up to \$2.5MM per Category, and the total royalty obligation would not exceed \$5MM/YR., in return for a license for itself and its Affiliates.

### 5. Are there royalty fees for “Must Carry” retransmissions of public service broadcasts where there is a fee charged to the end-user for the retransmission?

- The royalties are waived for public service broadcast, even upon retransmission for a fee to the end-user.

---

<sup>1</sup> Rates shown are HEVC Advance In-Compliance rates.

6. **Are there royalty fees for retransmissions of free-to-user Commercial Broadcasts where there is a subscription fee charged to the end-user for the retransmission?**
  - Yes, there is a Subscription royalty due for the retransmission.
  - Subscriber Fee (see Item 3)
  - \$2.5MM Annual Cap
  
7. **Are there royalty fees for services like TV Everywhere where a broadcaster has an app that requires authentication through, for example, a cable company subscription in order for an end-user to view IP delivered content?**
  - No fee to the broadcaster
  - No additional fee to the cable company
  - The service is covered by the cable company that is already paying that direct subscriber fee
  - This is true regardless of whether the channel is available in a broadcaster app, a cable app, or both because it is authenticated via the same cable subscription.
  
8. **Are there royalty fees when a broadcaster (e.g., local station or network) has an app that they are selling subscriptions to in order for an end-user to view IP delivered content?**
  - There is a Subscription royalty fee to the broadcaster because they are charging a fee to the end-user.
  - Subscriber Fee (see Item 3) with a \$2.5MM annual cap for the linear channel streams.
  - Title-by-Title Fee (see Item 3) with a \$2.5MM annual cap for the VOD.
  - \$5MM annual enterprise cap
  
9. **Are there royalty fees for subscription broadcast services using next-gen broadcasting where, in addition to free channel(s), a station offers subscription access to some channels?**
  - If the station group charges a direct fee and the channel group includes access to channels encoded using HEVC, there would be a subscription royalty fee to the broadcaster.
  - Subscriber Fee (see Item 3) with a \$2.5MM annual cap.

10. **Are there royalty fees for subscription non-real time or datacast services using next-gen broadcasting where, in addition to free channel(s), a station offers individual movie or program titles that would be datacast and stored on a consumer's set top box where they could be purchased for viewing?**
  - If the station group charges a direct fee for access to a movie or program title encoded using HEVC, there would be a Title-by Title fee to the station.
  - Title-by-Title Fee (see Item 3) with a \$2.5MM annual cap.
11. **Are there royalty fees for authenticated, but free access: A station group may choose to offer their service as an encrypted service that requires an end-user to register, but the service itself is free?**
  - Since there is no charge to the end-user, the royalty is waived.
12. **Are there royalty fees for "Catch Up" TV where if end-user misses a show the end-user can request to see it via Internet access?**
  - There are royalty fees only if there is a charge to the end-user. In some cases, Catch Up TV would be included as part of a paid subscription service and thus would be covered under a license for the subscription.
13. **If Public Service Broadcasters are one day allowed/able to provide a Pay-Per-View service where they charge a fee to the end-user, would the royalties be waived?**
  - Most likely yes. However, the answer will depend on many factors that will need to be evaluated by the Licensing Administrator in the event this happens. Such factors, for example, would include whether the service is provided for profit or as a public service.
14. **If a Public Service Broadcaster charges a fee to the end-user for use of equipment needed to receive its broadcast, would the royalties be waived?**
  - Yes, the waiver will apply to such broadcasting as long as it's from a non-profit Public Service Broadcaster.
15. **If a cable company transcodes a HEVC-encoded broadcast signal into a non-HEVC format for distribution over its network to an end-user for a fee, would the cable company owe a royalty for the transcoding or distribution?**
  - There would be no royalty due since there is no distribution of HEVC-encoded content to the end-user.

- 16. If an encrypted free broadcast service is delivered over the air (viewers must provide some personal/demographic information in order to watch), would the royalty be waived?**
- Yes, the royalty would be waived. Requiring personal/demographic data is not considered receipt of a fee.
- 17. If a subscription service is delivered over the air in addition to a free service, would a royalty be due?**
- A royalty is due for the subscription service only. Only the subscribers having access to and the ability to receive/decode/decrypt HEVC content will be counted in the royalty calculation. Also, remember, the \$25K annual credit can be used to effectively waive a large number of such subscribers from the royalty payment.
- 18. If a broadcast program delivered over the air has English and Spanish for free (to end-user) and additional languages are available via broadband streaming for a PPV fee, would a royalty be due?**
- The HEVC Advance program does not apply to audio, only HEVC video. If only an additional audio signal is being provided it is outside the scope of our program.
  - HEVC Advance has announced an “Additional Language Royalty Waiver”. HEVC Advance waives royalties for HEVC Content distributed by an OTA Broadcaster, whether broadcast or streamed, which HEVC Content is a concurrent transmission of a free OTA broadcast by the same OTA Broadcaster in a different language.
- 19. If a broadcast program delivered over the air has English and Spanish for free (to end-user) and additional languages are available via over the air transmission for a PPV fee, would a royalty be due?**
- Same as 18 above.
- 20. A car race broadcast over the air has the normal racetrack camera views. Special pit and in-car cockpit views are available via internet streaming for viewing as a picture-in-picture or on a component device; the extra video streams are part of a seasonal “supplemental content” subscription. Would a royalty be due?**
- HEVC Advance has announced a “Supplemental Content Royalty Waiver”. HEVC Advance waives royalties for HEVC Content distributed, whether broadcast or streamed, by an OTA Broadcaster, which HEVC Content is supplemental content directly related to a free OTA Broadcast of HEVC Content (*i.e.*, content covering the same event(s) that are the subject of the free OTA Broadcast and which would not be saleable as stand-alone content independent of the OTA Broadcast to which it is supplemental) by the same OTA Broadcaster and which is viewed concurrently with such free OTA Broadcast.

- 21. An on-demand recording of a previously aired show is datacast over the air to consumer gateway devices and Smart TVs. It would have been free if recorded by consumer DVR, but the consumer forgot to schedule the recording. If viewed a “consumer fee” is paid by the consumer.**
- HEVC Advance has announced a “Datacast-Time-Shifting Royalty Waiver”. HEVC Advance waives royalties for HEVC Content distributed on-demand via datacast by an OTA Broadcaster, which HEVC Content had been broadcast OTA for free by the same OTA Broadcaster, provided that any fees charged by the OTA Broadcaster to the end-user for the datacast represent solely a “convenience fee” (*i.e.*, a modest (~\$1) time-shifting convenience fee for a datacast within several (~2-3) days of the original OTA broadcast).
- 22. If a Pay TV operator distributes an over the air broadcast program – the broadcaster receives a re-transmission fee from the Pay TV operator, would a royalty be due by the broadcaster?**
- No, a royalty is not due by the broadcaster. However, if the Pay TV operator charges a fee to the end-user for the retransmission of the over-the-air broadcast, a royalty is due by the Pay TV operator.
- 23. If a broadcaster provides an app that requires authentication through a pay TV provider in order for the end-user to view content delivered by the broadcaster via broadband, would a royalty be due by the broadcaster?**
- No, a royalty is not due by the broadcaster. The royalty would be covered under the subscriber fee paid by the Pay TV operator.
- 24. If a video on demand movie is delivered via an over the air broadcast service and stored on a consumer’s device for which a fee is paid when viewed, would a royalty be due?**
- Yes, a royalty (Title-by-Title fee) would be due by the entity that collects the fee from the end-user.
- 25. If a Public Media Broadcaster sends customized content, beyond what is available over the air, to a specifically selected audience as a “member benefit”, would a royalty be due?**
- No royalty is due, unless the member benefit is related to a contribution which is in essence nothing more than a fee for access to the customized HEVC content.
- 26. If a Public Media Broadcaster sends encrypted video files to first responders would a royalty be due?**
- No royalty is due (encrypted or otherwise).