

Copyright Board
Canada



Commission du droit d'auteur
Canada

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Regime Retransmission of Distant Radio and Television Signals
Copyright Act, Section 66.51

Members Mr. Justice John H. Gomery
Mr. Stephen J. Callary
Mrs. Adrian Burns
Ms. Sylvie Charron
Mr. Andrew E. Fenus

Interim tariffs for the retransmission of distant radio and television signals during 2001

Reasons for decision

At the request of the Copyright Collective of Canada (for television) and the Society of Composers, Authors and Music Publishers of Canada (for radio), the Board adopts, as interim tariffs to be collected for the retransmission of distant radio and television signals during 2001, the text attached to this interim decision. The tariff for television is similar to the one certified by the Board for the period 1998-2000. As for the radio tariff, it reflects the one proposed for 2001-2003 which was not contested.

The forms contained in Appendices B of the tariffs for 1998 to 2000 shall be used for the interim tariffs.

The objection of 2000051 Ontario Inc. (JumpTV) to any interim television retransmission tariff "that does not adequately address Internet-based retransmission" is noted. JumpTV has requested that both the interim and final tariff deal with the offering of over-the-air signals on the Internet. The answer to its concerns does not lie in denying transmitters and collectives the benefits of a stable business environment, but in dealing swiftly with its requests. The matter will be addressed shortly.

Claude Majean

Claude Majeau

Secretary General

INTERIM STATEMENT OF ROYALTIES TO BE COLLECTED FOR THE RETRANSMISSION OF DISTANT RADIO SIGNALS, IN CANADA, DURING 2001

Short Title

1. This tariff may be cited as the Interim Radio Retransmission Tariff 2001.

Definitions

2. In this tariff,

“distant signal” has the meaning attributed to it in paragraph 3(b) of the *Local Signal and Distant Signal Regulations*, SOR/89-254, (*Canada Gazette*, Part II, Vol. 123, page 2579) which reads:

“ ‘distant signal’ means a signal that is not a local signal”. (*signal éloigné*)

“licence” has the meaning attributed to it in section 2 of the *Definition of Small Retransmission Systems Regulations*, SOR/89-255, (*Canada Gazette*, Part II, Vol. 123, page 2588) as amended by SOR/94-754 (*Canada Gazette*, Part II, Vol. 128, page 4091), which reads:

“ ‘licence’ means a licence issued under paragraph 9(1)(b) of the *Broadcasting Act* authorizing the licensee to carry on a broadcasting receiving undertaking that distributes programming services to premises by means of signals that are retransmitted by cable or Hertzian waves” (*licence*)

“licensed area” has the meaning attributed to it in section 2 of the *Definition of Small Retransmission Systems Regulations*, which reads:

“ ‘licensed area’ means the area within which a licensee is authorized, under its licence, to provide services;” (*zone de desserte*)

“local signal” has the meaning attributed to it in paragraph 3(a) of the *Local Signal and Distant Signal Regulations*, and corresponds to a signal received in premises (or, in the case of a terrestrial retransmission system utilizing Hertzian waves, at the site of the transmitter) located within a television station’s area of transmission (as defined in section 2 of the Regulations); (*signal local*)

“LPTV” means a Low Power Television Station or a Very Low Power Television Station (as defined in Sections E and G of Part IV of the *Broadcasting Procedures and Rules* of Industry Canada effective April 1990); (*TVFP*)

“MDS” means a multichannel multipoint distribution system and includes all transmitters which retransmit to subscribers of that system at least one signal either directly or indirectly derived from a common headend or some other common facility; (*SDM*)

“premises” has the meaning attributed to it in section 2 of the *Definition of Small Retransmission Systems Regulations*, which reads:

“ ‘premises’ means

(a) a dwelling, including a single unit residence or a single unit within a multiple-unit residence; or

(b) a room in a commercial or institutional building”; (*local*)

“**retransmitter**” has the meaning attributed to it in section 31 of the *Copyright Act*, R.S., 1985, c. C-42 (as amended), and includes a person who operates a cable retransmission system (including a master antenna system), an LPTV, an MDS or a direct-to-home satellite system (DTH system); (*retransmetteur*)

“**signal**” has the meaning attributed to it in subsection 31(1) of the *Copyright Act*, which reads:

“ ‘signal’ means a signal that carries a literary, dramatic, musical or artistic work and is transmitted for free reception by the public by a terrestrial radio or terrestrial television station.”,

but, for the purposes of this tariff, this meaning is restricted to a radio signal only; (*signal*)

“**small retransmission system**” has the meaning attributed to it in sections 3 and 4 of the *Definition of Small Retransmission Systems Regulations*, which read:

“3. (1) Subject to subsections (2) to (4) and section 4, for the purpose of subsection 70.64(1)¹ of the *Copyright Act*, ‘small retransmission system’ means a cable retransmission system, or a terrestrial retransmission system utilizing Hertzian waves, that retransmits a signal, with or without a fee, to not more than 2,000 premises in the same licensed area.

(2) For the purpose of subsection (1), where a cable retransmission system is included in the same unit as one or more other cable retransmission systems, the number of premises to which the cable retransmission system retransmits a signal is deemed to be equal to the total number of premises to which all cable retransmission systems included in that unit retransmit a signal.

(3) For the purpose of subsection (2), a cable retransmission system is included in the same unit as one or more other cable retransmission systems where

- a. they are owned or directly or indirectly controlled by the same person or group of persons; and
- b. their licensed areas are each less than 5 km distant, at some point, from at least one other among them, and those licensed areas would constitute a series of contiguous licensed areas, in a linear or non-linear configuration, were it not for that distance.

(4) Subsection (2) does not apply to a cable retransmission system that was included in a unit on December 31, 1993.

¹ Now subsection 74(1) as a result of an amendment to the *Copyright Act* by S.C. 1997, c.24

4. The definition set out in subsection 3(1) does not include a cable retransmission system that is a master antenna system located within the licensed area of another cable retransmission system that retransmits a signal, with or without a fee, to more than 2,000 premises in that licensed area.”; (*petit système de retransmission*)

“**TVRO**” means a Television Receive Only Earth Station designed for the reception of signals transmitted by satellite; (*TVRO*)

“**year**” means a calendar year. (*année*)

Application

3. This tariff applies to the retransmission of one or more distant signals that carry any work owned or controlled by any collective society listed in Appendix A.

THE TARIFF

Small Retransmission Systems

4. (1) The royalty for a small retransmission system shall be \$12.50 for a year and shall be due

- a. for systems retransmitting a distant signal on December 31 of the previous year, on January 31 of that year; and
- b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in that year.

(2) A system shall be deemed to be a small retransmission system for a given year if

- a. on December 31 of the previous year, the system retransmitted a distant signal and was a small retransmission system;
- b. the system did not retransmit a distant signal on December 31 of the previous year and is a small retransmission system on the last day of the month in which it first retransmits a distant signal in the year; or
- c. the average number of premises, determined in accordance with the *Definition of Small Retransmission Systems Regulations*, the system served or was deemed to serve on the last day of each month of the previous year during which it retransmitted a distant signal was no more than 2,000.

(3) For the purposes of paragraph (2)(c), where a system was included in a unit on December 31 of the previous year and not on December 31, 1993, only those months during which the systems included in the unit were the same as on December 31 of the previous year shall be used.

Unscrambled LPTV and Unscrambled MDS

5. The royalty for an LPTV whose signals are not scrambled or an MDS whose signals are not scrambled shall be \$12.50 a year and shall be due

- a. for systems retransmitting a distant signal on December 31 of the previous year, on

- January 31 of that year;
- b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in that year.

Other Retransmission Systems

6. (1) Subject to subsection (2), the royalty for any other retransmission system (including a scrambled MDS) shall be five cents for each premises or TVRO served by the system on the later of December 31 of the previous year or the last day of the month in which it first retransmits a distant signal in the year, and shall be due

- a. for systems retransmitting a distant signal on December 31 of the previous year, on January 31 of that year;
- b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in that year.

(2) The rate of the royalty payable for a cable retransmission system (including a master antenna system) located within the licensed area of another cable retransmission system that retransmits a signal, with or without a fee, to more than 2,000 premises in its licensed area shall be the same as that of the other retransmission system.

Unauthorized Reception of Retransmitted Signals

7. In determining the amount of royalties payable by a retransmitter, no account is taken of premises or TVROs receiving a signal without the direct or indirect authority of the retransmitter.

Francophone Markets

8. (1) Royalties payable under section 6 for a cable retransmission system located in a Francophone market and in respect of premises receiving scrambled signals from an MDS transmitter located in a Francophone market shall be calculated at a rate equal to 50 per cent of the rate otherwise payable under that section.

(2) A cable retransmission system is deemed to be located in a Francophone market if

- a. the system is located in the Province of Quebec;
- b. the system's licensed area encompasses, in whole or in part, the cities, towns or municipalities of
 - i. Bathurst, Campbellton, Dalhousie, Edmundston, Kedgwick or Shediac, New Brunswick,
 - ii. Cochrane, Fauquier-Strickland, Hawkesbury, Hearst, Hornepayne, Kapuskasing, Mattice-Val Cote, Opatatika or Smooth Rock Falls, Ontario, or
 - iii. Gravelbourg, Saskatchewan; or
- c. the population of French mother tongue represents more than 50 per cent of the total population of all cities, towns or municipalities, encompassed in whole or in part by the system's licensed area, according to the most recent population figures published by

Statistics Canada.

(3) An MDS transmitter shall be deemed to be located in a Francophone market if it is located (i) in the Province of Quebec, (ii) in any of the cities, towns or municipalities described in paragraph 2(b), or (iii) in any city, town or municipality in which the population of French mother tongue represents more than 50 per cent of the total population of such cities, towns or municipalities according to the most recent population figures published by Statistics Canada.

Discount for Certain Non-Residential Premises

9. The royalty payable for the following types of premises shall be reduced as follows:

- a. rooms in hospitals, nursing homes and other health care facilities: 75 per cent;
- b. rooms in hotels: 40 per cent;
- c. rooms in schools and other educational institutions: 75 per cent.

Allocation of the Retransmission Royalty

10. A retransmitter shall pay to the collective societies the following portions of the royalty:

1. CBRA: 25 per cent
2. CRRRA: 25 per cent
3. SOCAN: 50 per cent

ADMINISTRATIVE PROVISIONS

Reporting Requirements: General

11. Subject to sections 12 to 16, every retransmitter shall provide each collective society with the following information in respect of each retransmission system it operates:

- a. the name of the retransmitter, that is,
 - i. the name of a corporation and a mention of its jurisdiction of incorporation,
 - ii. the name of the proprietor of an individual proprietorship, or
 - iii. the names of the principal officers of all other retransmitters, together with any trade name (other than the above) under which it carries on business;
- b. the address of the retransmitter's principal place of business;
- c. the retransmitter's address (including any telecopier number) for the purposes of notice;
- d. the name and address of any other retransmitter who receives a distant signal from the retransmitter, and the list of all signals retransmitted to that other retransmitter;
- e. a precise description of the system's licensed area;
- f. if the retransmitter has filed a map with the CRTC of the licensed area within which the system is located, if that map has not already been provided to the collective society, the date when the most recent map was so filed;
- g. the monthly fee charged by the retransmitter for basic service;
- h. the number of premises or TVROs of each type served, divided into residential, health care, hotels, educational institutions and others;

- i. the number of premises of each type authorized to have more than one outlet for the retransmitted signals;
- j. where possible, the number of premises of each type authorized to have more than two outlets;
- k. for each service or signal distributed:
 - i. the name or call letters,
 - ii. the frequency band,
 - iii. any network affiliation,
 - iv. if the signal is a repeater, the call letters of the mother signal, and
 - v. either an indication of whether the signal is local, distant or partially distant or an indication that technical analysis would be required to determine whether it is local, distant or partially distant.

Additional Reporting Requirements: Small Retransmission Systems

12. A retransmitter who operates a small retransmission system shall provide, in addition to the information required under section 11, the following information:

- a. if the small retransmission system qualifies as such by virtue of paragraph 4(2)(c), the number of premises, determined in accordance with the *Definition of Small Retransmission Systems Regulations* and section 4, the system served or was deemed to serve on the last day of each month of the previous year during which it retransmitted a distant signal;
- b. if the small retransmission system is a master antenna system and is located within the licensed area of another cable retransmission system, the name of that other system and a statement to the effect that the other system retransmits a signal, with or without a fee, to no more than 2,000 premises in its licensed area;
- c. if the small retransmission system is included in a unit within the meaning of the *Definition of Small Retransmission Systems Regulations*,
 - i. the date the system was included in the unit,
 - ii. the names of all the systems included in the unit,
 - iii. the names of the person or group of persons who own or who directly or indirectly control the systems included in the unit, and
 - iv. the nature of the control exercised by these persons.

Reporting Requirements: Unscrambled LPTV and Unscrambled MDS

13. A retransmitter who operates an LPTV whose signals are not scrambled or an MDS whose signals are not scrambled shall provide each collective society with the following information in respect of each LPTV or MDS it operates:

- a. the information referred to in paragraphs (a) to (c) and (k) of section 11; and
- b. a description of the location of the LPTV or MDS.

Reporting Requirements: DTH Systems

14. A retransmitter who operates a DTH system shall provide each collective society, in respect

of each such system it operates, the information referred to in paragraphs (a) to (d) and (g) to (k) of section 11.

Reporting Requirements: Scrambled LPTV and Scrambled MDS

15. A retransmitter who operates a scrambled LPTV or scrambled MDS shall provide each collective society in respect of each system it operates the information referred to in paragraphs (a) to (d) and (g) to (k) of section 11. A retransmitter who operates a scrambled MDS shall also provide, for each transmitter forming part of the MDS, the information set out in paragraphs (g) to (k) and a description of each transmitter's location (i.e., its latitude and longitude to the nearest second) and of the area in which it serves premises.

Additional Reporting Requirements: MATV Systems

16. A retransmitter who operates a master antenna system shall provide, in addition to the information required under section 11 or 12, the address where its transmitter is located and the address of any other building in which premises served by it are located, and indicate whether or not it is licensed by the CRTC.

Additional Reporting Requirements: Cable Retransmission Systems (other than Small Retransmission Systems) Located in the Licensed Area of another Cable Retransmission System

17. A retransmitter who operates a cable retransmission system (including a master antenna system but excluding a small retransmission system) located within the licensed area of another cable retransmission system that retransmits a signal with or without a fee, to more than 2,000 premises in its licensed area shall provide, in addition to the information required under section 11, the name of such other cable retransmission system.

Additional Reporting Requirements: Francophone Markets

18. (1) A retransmitter who operates a cable retransmission system located in a Francophone market, other than a system located in the Province of Quebec, shall provide, in addition to the information required under section 11 or 16,

- a. the name of the city, town or municipality listed in paragraph 8(2)(b) which is encompassed in whole or in part in the licensed area of the system; or
- b. a list of all the cities, towns and municipalities encompassed in whole or in part by the system's licensed area, specifying for each its total population and its population of French mother tongue, according to the most recent population figures published by Statistics Canada.

(2) A retransmitter who operates a scrambled MDS which serves premises from a transmitter located in a Francophone market shall provide, in addition to the information required under section 15,

- a. the name of the city, town and municipality listed in paragraph 8(2)(b) in which the transmitter is located; or

- b. the name of the city, town or municipality in which the transmitter is located, with its total population and its population of French mother tongue, according to the most recent population figures published by Statistics Canada.

Additional Reporting Requirements: Multi-System Operators

19. A retransmitter who operates more than one retransmission system shall provide a list of all the retransmission systems operated by that retransmitter.

Reporting Dates

20. The information required under sections 11 to 19 shall be supplied as of December 31 of every year and shall be provided by January 31 of the following year.

Forms

21. The information required under sections 11 to 19 shall be provided on the forms contained in Appendix B to the Statement of Royalties certified by the Board for the years 1998-2000, or in any other format that is agreed upon by the collective society and the retransmitter.

Errors

22. A retransmitter who discovers an error in any information provided to a collective society shall promptly provide the correct information.

Supplementary Information, Records and Audits

23. A retransmitter shall provide a collective society, upon request, with the address and number of premises contained in each building within a given system for which the retransmitter claims a discount pursuant to section 9.

24. (1) A retransmitter shall keep and preserve until December 31, 2007, records from which a collective society can readily ascertain the amounts payable and the information required under this tariff.

(2) A collective society may audit these records at any time until December 31, 2007, on reasonable notice and during normal business hours, provided that the collective society has not audited the system for at least 12 months.

(3) The collective society shall, upon receipt, supply the retransmitter and all other collective societies with a copy of the report of any audit.

(4) If the audit of a retransmission system discloses that royalties due to the collective society for that system have been understated in any month by more than 20 per cent, the retransmitter shall pay the reasonable costs of the audit of the system within 30 days of the demand for payment being made.

Confidentiality

25. (1) Subject to subsections (2) and (3), a collective society and its royalty claimants shall treat in confidence information received from a retransmitter pursuant to this tariff, unless the retransmitter consents in writing to the information being treated otherwise.

(2) A collective society may share information referred to in subsection (1)

- a. with any other collective society;
- b. with the Board;
- c. in connection with proceedings before the Board, if it has first provided the retransmitter with a reasonable opportunity to obtain a confidentiality order;
- d. to the extent required to effect the distribution of royalties, with its royalty claimants; or
- e. if ordered by law or by a court of law.

(3) Subsection (1) does not apply to information that is publicly available, or to information obtained from someone other than the retransmitter, who is not under an apparent duty of confidentiality to the retransmitter.

Adjustments

26. (1) Subject to subsection (2), adjustments in the amount of royalties owed by a retransmitter (including adjustments as a result of excess payments), as a result of the discovery of an error or otherwise, shall be made on the date the retransmitter's next royalty payment is due.

(2) A retransmitter may deduct any amount owed to it from its next royalty payments until no money remains owed to it.

Interest on Late Payments

27. (1) Any amount not received by the due date shall bear interest from that date until the date the amount is received.

(2) Any amount found to be owing, through an audit or otherwise, shall bear interest from the date it was due until the date the amount is received.

(3) Any amount that cannot be delivered at the address referred to in section 28 shall bear interest from the date when the person owing the amount receives notice of the new address to which it should be delivered until the date the amount is received.

(4) Interest shall be calculated daily, at the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada) plus one per cent. Interest shall not compound.

Addresses for Notices, etc.

28. (1) Anything that a retransmitter sends to a collective society shall be sent to the address listed in Appendix A, or to any other address of which the retransmitter has been notified.

(2) Anything that a collective society sends to a retransmitter shall be sent to:

- a. the address provided to the collective society in accordance with paragraph 11(d);
- b. any other address of which the collective society has been notified; or
- c. where no such address has been provided, to any other address where the retransmitter can be reached.

Delivery of Notices and Payments

29. (1) A notice may be delivered by hand, by postage paid mail, by telegram or by telecopier.

(2) A notice or payment mailed in Canada shall be presumed to have been received three business days after the day it was mailed.

(3) A notice sent by telegram or by telecopier shall be presumed to have been received the day it is transmitted.

Appointment of Designate

30. (1) Any person that a collective society designates to receive a payment or notice shall have an address in Canada.

(2) A collective society shall notify a retransmitter at least 60 days in advance of such a designation or of any change therein.

APPENDIX A: COLLECTIVE SOCIETIES
INTERIM RADIO TARIFF FOR 2001

Canadian Broadcasters Rights Agency Inc. (CBRA)

155 Queen Street
Suite 1301
Ottawa, Ontario
K1P 6L1
(613) 232-4370 (Telephone)
(613) 236-9241 (Facsimile)

Canadian Retransmission Right Association (CRRA)

c/o Canadian Broadcasting Corporation (CBC)
250 Lanark Avenue
Ottawa, Ontario
K1Z 6R5
(613) 724-5373 (Telephone)
(613) 724-5453 (Facsimile)

Society of Composers, Authors and Music Publishers of Canada (SOCAN)

41 Valleybrook Drive
Don Mills, Ontario
M3B 2S6
(416) 445-8700 (Telephone)

(416) 445-7198 (Facsimile)

**INTERIM STATEMENT OF ROYALTIES TO BE COLLECTED
FOR THE RETRANSMISSION OF DISTANT TELEVISION
SIGNALS, IN CANADA, DURING 2001**

Short Title

1. This tariff may be cited as the *Interim Television Retransmission Tariff 2001*.

Definitions

2. In this tariff,

“distant signal” has the meaning attributed to it in subsection 3(b) of the *Local Signal and Distant Signal Regulations*, SOR/89-254, (*Canada Gazette*, Part II, Vol. 123, page 2579) which reads:

“ ‘distant signal’ means a signal that is not a local signal.”; (*signal éloigné*)

“licence” has the meaning attributed to it in section 2 of the *Definition of Small Retransmission Systems Regulations*, SOR/89-255, (*Canada Gazette*, Part II, Vol. 123, page 2588) as amended by SOR/94-754 (*Canada Gazette*, Part II, Vol. 128, page 4091), which reads:

“ ‘licence’ means a licence issued under paragraph 9(1)(b) of the *Broadcasting Act* authorizing the licensee to carry on a broadcasting receiving undertaking that distributes programming services to premises by means of signals that are retransmitted by cable or Hertzian waves;” (*licence*)

“licensed area” has the meaning attributed to it in section 2 of the *Definition of Small Retransmission Systems Regulations*, which reads:

“ ‘licensed area’ means the area within which a licensee is authorized, under its licence, to provide services;” (*zone de desserte*)

“local signal” has the meaning attributed to it in subsection 3(a) of the *Local Signal and Distant Signal Regulations*, and corresponds to a signal received in premises (or, in the case of a terrestrial retransmission system utilizing Hertzian waves, at the site of the transmitter) located within a television station’s area of transmission (as defined in section 2 of the Regulations); (*signal local*)

“LPTV” means a Low Power Television Station or a Very Low Power Television Station (as defined in Sections E and G of Part IV of the *Broadcasting Procedures and Rules* of Industry Canada effective May 1994); (*TVFP*)

“network” means the Société Radio-Canada, the Canadian Broadcasting Corporation, the CTV Television Network, the Réseau de télévision TVA, the Réseau de télévision Quatre Saisons, the ABC Network, the CBS Network, the NBC Network or the Public Broadcasting System;

(réseau)

“**premises**” has the meaning attributed to it in section 2 of the *Definition of Small Retransmission Systems Regulations*, which reads:

“ ‘premises’ means

(a) a dwelling, including a single unit residence or a single unit within a multiple-unit residence; or

(b) a room in a commercial or institutional building.”; (*local*)

“**retransmitter**” has the meaning attributed to it in section 31 of the *Copyright Act*, R.S., 1985, c. C-42, and includes a person who operates a cable system (including a master antenna system), a LPTV system, a multipoint distribution system (MDS) or a direct-to-home satellite system (DTH system); (*retransmetteur*)

“**signal**” has the meaning attributed to it in subsection 31(1) of the *Copyright Act*, which reads:

“ ‘signal’ means a signal that carries a literary, dramatic, musical or artistic work and is transmitted for free reception by the public by a terrestrial radio or terrestrial television station.”,

but, for the purposes of this tariff, this meaning is restricted to a television signal only; (*signal*)

“**small retransmission system**” has the meaning attributed to it in sections 3 and 4 of the *Definition of Small Retransmission Systems Regulations*, which read:

“3. (1) Subject to subsections (2) to (4) and section 4, for the purpose of subsection 70.64(1)² of the *Copyright Act*, ‘small retransmission system’ means a cable retransmission system, or a terrestrial retransmission system utilizing Hertzian waves, that retransmits a signal, with or without a fee, to not more than 2,000 premises in the same licensed area.

(2) For the purpose of subsection (1), where a cable retransmission system is included in the same unit as one or more other cable retransmission systems, the number of premises to which the cable retransmission system retransmits a signal is deemed to be equal to the total number of premises to which all cable retransmission systems included in that unit retransmit a signal.

(3) For the purpose of subsection (2), a cable retransmission system is included in the same unit as one or more other cable retransmission systems where

- a. they are owned or directly or indirectly controlled by the same person or group of persons; and
- b. their licensed areas are each less than 5 km distant, at some point, from at least one other

² Now subsection 74(1) as a result of an amendment to the *Copyright Act* by S.C. 1997, c. 24

among them, and those licensed areas would constitute a series of contiguous licensed areas, in a linear or non-linear configuration, were it not for that distance.

(4) Subsection (2) does not apply to a cable retransmission system that was included in a unit on December 31, 1993.

4. The definition set out in subsection 3(1) does not include a cable retransmission system that is a master antenna system located within the licensed area of another cable retransmission system that retransmits a signal, with or without a fee, to more than 2,000 premises in that licensed area.”; (*petit système de retransmission*)

“**TVRO**” means a Television Receive Only Earth Station designed for the reception of signals transmitted by satellite; (*TVRO*)

“**year**” means a calendar year. (*année*)

Application

3. This tariff applies to the retransmission of one or more distant signals that carry any work owned or controlled by any collective society listed in Appendix A.

THE TARIFF

Small Retransmission Systems

4. (1) The royalty for a small retransmission system shall be \$100 for 2001 and shall be due

- a. for systems retransmitting a distant signal on December 31, 2000, on January 31, 2001;
- b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in 2001.

(2) A system shall be deemed to be a small retransmission system for 2001 if

- a. on December 31, 2000 the system retransmitted a distant signal and was a small retransmission system;
- b. the system did not retransmit a distant signal on December 31, 2000 and is a small retransmission system on the last day of the month in which it first retransmits a distant signal in 2001; or
- c. the average number of premises, determined in accordance with the *Definition of Small Retransmission Systems Regulations*, the system served or was deemed to serve on the last day of each month of 2000 during which it retransmitted a distant signal was no more than 2,000.

(3) For the purposes of paragraph (2)(c), where a system was included in a unit on December 31, 2000 and not on December 31, 1993, only those months during which the systems included in the unit were the same as on December 31, 2000 shall be used.

Unscrambled LPTV Systems and Unscrambled MDS

5. The royalty for an LPTV system or MDS whose signal is not scrambled shall be \$100 for 2001 and shall be due

- a. for systems retransmitting a distant signal on December 31, 2000, on January 31, 2001;
- b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in 2001.

DTH Systems

6. The royalty for a DTH system shall be payable monthly for each TVRO it serves on the last day of any given month, and shall be due on the last day of the following month.

Other Retransmission Systems

7. (1) The royalty for any other retransmission system shall be payable monthly for each premises receiving one or more distant signals retransmitted by it on the last day of any given month, and shall be due no later than the last day of the following month.

(2) Subject to subsection (3), the rate of the royalty payable under subsection (1) shall be based on the total number of premises served by the system in its licensed area on the last day of any given month.

(3) The rate of the royalty payable for a master antenna system located within the service area of another cable retransmission system that retransmits a signal, with or without a fee, to more than 2,000 premises in its licensed area shall be the same as that of the other retransmission system.

Unauthorized Reception of Retransmitted Signals

8. In determining the amount of royalties payable by a retransmitter, no account is taken of premises or TVROs receiving a signal without the direct or indirect authority of the retransmitter.

Rates

9. Royalties payable under sections 6 or 7 shall be calculated as follows:

<i>Number of premises or TVROs</i>	<i>Monthly rate for each premises or TVRO receiving one or more distant signals</i>
up to 1,500	20 cents
1,501 – 2,000	25 cents
2,001 – 2,500	30 cents
2,501 – 3,000	35 cents
3,001 – 3,500	40 cents
3,501 – 4,000	45 cents
4,001 – 4,500	50 cents
4,501 – 5,000	55 cents
5,001 – 5,500	60 cents
5,501 – 6,000	65 cents
6,001 and over	70 cents

Francophone Markets

10. (1) Royalties payable under section 7 for a system located in a Francophone market shall be calculated at a rate equal to 50 per cent of the rate otherwise payable under section 9.

(2) A system is deemed to be located in a Francophone market if

- a. the system is located in the Province of Quebec,
- b. the system's service area encompasses, in whole or in part, the cities, towns or municipalities of
 - i. Bathurst, Campbellton, Dalhousie, Edmundston, Kedgwick or Shediac, New Brunswick,
 - ii. Cochrane, Fauquier-Strickland, Hawkesbury, Hearst, Hornepayne, Kapuskasing, Mattice-Val Cote, Opatatika or Smooth Rock Falls, Ontario, or
 - iii. Gravelbourg, Saskatchewan, or
- c. the population of French mother tongue represents more than 50 per cent of the total population of all cities, towns or municipalities, encompassed in whole or in part by the system's service area, according to the most recent population figures published by Statistics Canada.

When a Signal is Partially Distant

11. A signal that is distant in part of the area covered by a postal code shall be deemed to be distant for half the premises served in that area.

Discount for TVA Signal

12. The royalty payable under section 7 for premises receiving only a TVA distant signal shall be reduced by 95 percent if

- a. the signal is retransmitted to comply with CRTC Distribution Order 1999-1, dated February 12, 1999, and
- b. the system is not located in a Francophone market.

Discount for "Duplicate" Network Distant Signal

13. (1) Subject to subsection (2), the royalty payable under sections 7 or 10 for premises receiving only distant signals which are the signals of stations owned by or affiliated solely with a network that owns or has an exclusive affiliation agreement with a station whose signal is local, shall be reduced

- a. by 75 per cent for premises receiving only one such signal, or
- b. by 50 per cent, for premises receiving two or more such signals.

(2) The royalty payable under section 7 for premises which receive, in addition to signals mentioned in paragraph (1), a TVA distant signal in respect of which a system would otherwise be entitled to a discount pursuant to section 12 shall be reduced

- a. by 70 per cent for premises receiving only one duplicate network distant signal, or
- b. by 45 per cent for premises receiving two or more duplicate network distant signals.

Discount for Certain Non-Residential Premises

14. The royalty payable for the following types of premises shall be reduced as follows:
- a. rooms in hospitals, nursing homes and other health care facilities: 75 per cent;
 - b. rooms in hotels: 40 per cent;
 - c. rooms in schools and other educational institutions: 75 per cent.

Allocation of the Retransmission Royalty

15. A retransmitter shall pay to the collective societies the following portions of the royalty:

1.	BBC:	2.65	per cent
2.	CBRA:	6.05	per cent
3.	CCC:	56.86	per cent
4.	CRC:	11.96	per cent
5.	CRRA:	16.21	per cent
6.	FWS:	1.47	per cent
7.	MLB:	1.60	per cent
8.	SOCAN:	3.20	per cent

ADMINISTRATIVE PROVISIONS

Reporting Requirements: General

16. Subject to sections 17 to 22, every retransmitter shall provide each collective society with the following information in respect of each retransmission system it operates:
- a. the name of the retransmitter, that is,
 - i. the name of a corporation and a mention of its jurisdiction of incorporation,
 - ii. the name of the proprietor of an individual proprietorship, or
 - iii. the names of the principal officers of all other retransmitters,together with any trade name (other than the above) under which it carries on business;
 - b. the address of the retransmitter's principal place of business;
 - c. the retransmitter's address (including any telecopier number) for the purposes of notice;
 - d. the name and address of any other retransmitter who receives a distant signal from the retransmitter, and the list of all signals retransmitted to that other retransmitter;
 - e. a precise description of the system's service area;
 - f. a copy of any map of the licensed service area within which the system is located that has been filed with the CRTC, if that map has not already been provided to the collective society;
 - g. the monthly fee charged by the retransmitter for basic service;
 - h. the number of premises or TVROs of each type served, divided into residential, health care, hotels, educational institutions and others;

- i. the number of premises of each type receiving at least one signal as distant;
- j. for each service or signal distributed:
 - i. the name or call letters,
 - ii. any network affiliation,
 - iii. if the signal is a repeater, the call letters and any network affiliation of the mother signal,
 - iv. any other name by which the service or signal may be commonly known, and
 - v. an indication of whether the service or signal is offered on the basic or discretionary tier; and
- k. for each service or signal distributed:
 - i. the number of premises or TVROs of each type receiving the service or signal, and
 - ii. the number of premises of each type receiving the signal as distant.

Additional Reporting Requirements: Small Retransmission Systems

17. A retransmitter who operates a small retransmission system shall provide, in addition to the information required under section 16, the following information:

- a. if the small retransmission system qualifies as such by virtue of paragraph 4(2)(c), the number of premises, determined in accordance with the *Definition of Small Retransmission Systems Regulations* and section 4, the system served or was deemed to serve on the last day of each month of the previous year during which it retransmitted a distant signal;
- b. if the small retransmission system is a master antenna system and is located within the service area of another cable retransmission system, the name of that other system and a statement to the effect that the other system retransmits a signal, with or without a fee, to no more than 2,000 premises in its licensed area;
- c. if the small retransmission system is included in a unit within the meaning of the *Definition of Small Retransmission Systems Regulations*,
 - i. the date the system was included in the unit,
 - ii. the names of all the systems included in the unit,
 - iii. the names of the person or group of persons who own or who directly or indirectly control the systems included in the unit, and
 - iv. the nature of the control exercised by these persons.

Reporting Requirements: Unscrambled LPTV Systems and Unscrambled MDS

18. A retransmitter who operates an LPTV system or MDS whose signal is not scrambled shall provide each collective society with the following information in respect of each LPTV system or MDS it operates:

- a. the information referred to in paragraphs (a) to (c), (g) and (j) of section 16; and
- b. a description of the location of the LPTV system or MDS.

Reporting Requirements: DTH Systems

19. A retransmitter who operates a DTH system shall provide each collective society, in respect of each such system it operates, the information referred to in paragraphs (a) to (d) and (g) to (k) of section 16.

Additional Reporting Requirement: MATV Systems

20. A retransmitter who operates a master antenna system shall provide, in addition to the information required under section 16 or 17, the address where the system is located.

Additional Reporting Requirement: Francophone Markets

21. A retransmitter who operates a system located in a Francophone market, other than a system located in the Province of Quebec, shall provide, in addition to the information required under section 16 or 20,

- a. the name of the city, town or municipality listed in paragraph 10(2)(b) which is encompassed in whole or in part in the service area of the system, or
- b. a list of all the cities, towns and municipalities encompassed in whole or in part by the system's service area, specifying for each its total population and its population of French mother tongue, according to the most recent population figures published by Statistics Canada.

Additional Reporting Requirement: Multi-System Operators

22. A retransmitter who operates more than one retransmission system shall provide a list of all the retransmission systems operated by that retransmitter.

Reporting Dates

23. (1) The information required under sections 16 to 22 shall be supplied as of December 31, 2000 and shall be provided by January 31, 2001.

(2) A retransmitter shall update the information provided in accordance with sections 16 to 22 with respect to each date at which royalties are calculated, and shall provide it to each collective society by the date that royalty payment is due.

Forms

24. The information required under sections 16 to 22 shall be provided on the forms contained in Appendix B to the Statement of Royalties certified by the Board for the years 1998-2000, or in any other format that is agreed upon by the collective society and the retransmitter.

Errors

25. A retransmitter who discovers an error in any information provided to a collective society shall promptly provide the correct information.

Supplementary Information, Records and Audits

26. (1) A retransmitter shall provide a collective society, upon request, with the address and number of premises contained in each building within a given system for which the retransmitter claims a discount pursuant to section 14.

(2) A retransmitter shall provide a collective society, upon request, with a list of the postal codes within a given system, as well as the number of residential premises served in the area of each postal code, provided that the collective society has not made such a request with regard to the system for at least 12 months.

27. (1) A retransmitter shall keep and preserve until December 31, 2007, records from which a collective society can readily ascertain the amounts payable and the information required under this tariff.

(2) A collective society may audit these records at any time until December 31, 2007, on reasonable notice and during normal business hours, provided that the collective society has not audited the system for at least 12 months.

(3) The collective society shall, upon receipt, supply the retransmitter and all other collective societies with a copy of the report of any audit.

(4) If the audit of a retransmission system discloses that royalties due to the collective society for that system have been understated in any month by more than 20 per cent, the retransmitter shall pay the reasonable costs of the audit of the system within 30 days of the demand for payment being made.

Confidentiality

28. (1) Subject to subsections (2) and (3), a collective society and its royalty claimants shall treat in confidence information received from a retransmitter pursuant to this tariff, unless the retransmitter consents in writing to the information being treated otherwise.

(2) A collective society may share information referred to in subsection (1)

- a. with any other collective society,
- b. with the Board,
- c. in connection with proceedings before the Board, if it has first provided the retransmitter with a reasonable opportunity to obtain a confidentiality order;
- d. to the extent required to effect the distribution of royalties, with its royalty claimants, or
- e. if ordered by law or by a court of law.

(3) Subsection (1) does not apply to information that is publicly available, or to information obtained from someone other than the retransmitter, who is not under an apparent duty of confidentiality to the retransmitter.

Adjustments

29. (1) Subject to subsection (2), adjustments in the amount of royalties owed by a retransmitter (including excess payments), as a result of the discovery of an error or otherwise, shall be made

on the date the retransmitter's next royalty payment is due.

(2) A retransmitter may deduct any amount owed to it from its next royalty payments until no money remains owed to it.

Interest on Late Payments

30. (1) Any amount not received by the due date shall bear interest from that date until the date the amount is received.

(2) Any amount found to be owing, through an audit or otherwise, shall bear interest from the date it was due until the date the amount is received.

(3) Any amount that cannot be delivered at the address referred to in section 31 shall bear interest from the date when the person owing the amount receives notice of the new address to which it should be delivered until the date the amount is received.

(4) Interest shall be calculated daily, at the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada) plus one per cent. Interest shall not compound.

Addresses for Notices, etc.

31. (1) Anything that a retransmitter sends to a collective society shall be sent to the address listed in Appendix A, or to any other address of which the retransmitter has been notified.

(2) Anything that a collective society sends to a retransmitter shall be sent to:

- a. the address provided to the collective society in accordance with paragraph 16(d) or subsection 23(2), or
- b. where no such address has been provided, to any other address where the retransmitter can be reached.

Delivery of Notices and Payments

32. (1) A notice may be delivered by hand, by postage paid mail, by telegram or by telecopier.

(2) A notice or payment mailed in Canada shall be presumed to have been received three business days after the day it was mailed.

(3) A notice sent by telegram or by telecopier shall be presumed to have been received the day it is transmitted.

Appointment of Designate

33. (1) Any person that a collective society designates to receive a payment or notice shall have an address in Canada.

(2) A collective society shall notify a retransmitter at least 60 days in advance of such a

designation or of any change therein.

APPENDIX A: COLLECTIVE SOCIETIES
INTERIM TELEVISION TARIFF 2001

Border Broadcasters, Inc. (BBC)

C/o Ms. Marcie Smith
P.O. Box 2469A, Station A
Toronto, Ontario
M5W 2K6
(810) 827-9391 (Telephone)
(810) 344-9346 (Facsimile)

Canadian Broadcasters Rights Agency Inc. (CBRA)

155 Queen Street
Suite 1301
Ottawa, Ontario
K1P 6L1
(613) 232-4370 (Telephone)
(613) 236-9241 (Facsimile)

Canadian Retransmission Collective (CRC)

20 Toronto Street
Suite 830
Toronto, Ontario
M5C 2B8
(416) 304-0290 (Telephone)
(416) 304-0496 (Facsimile)

Canadian Retransmission Right Association (CRRA)

c/o Canadian Broadcasting Corporation
250 Lanark Avenue
Ottawa, Ontario
K1Z 6R5
(613) 724-5373 (Telephone)
(613) 724-5453 (Facsimile)

Copyright Collective of Canada (CCC)

22 St. Clair Avenue East
Suite 1603
Toronto, Ontario
M4T 2S4
(416) 961-1888 (Telephone)
(416) 968-1016 (Facsimile)

FWS Joint Sports Claimants Inc. (FWS)

c/o Piasetzki & Nenniger

Barristers and Solicitors
120 Adelaide Street West
Suite 2308
Toronto, Ontario
M5H 1T1
(416) 955-0050 (Telephone)
(416) 955-0053 (Facsimile)

Major League Baseball Collective of Canada, Inc. (MLB)

P.O. Box 3216
Commerce Court Postal Station
Commerce Court West
Toronto, Ontario
M5L 1K1
(416) 979-2211 (Telephone)
(416) 979-1234 (Facsimile)

Society of Composers, Authors and Music Publishers of Canada (SOCAN)

41 Valleybrook Drive
Don Mills, Ontario
M3B 2S6
(416) 445-8700 (Telephone)
(416) 445-7108 (Facsimile)