

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date 1999-12-21

Citation File: Retransmission 1998-2000

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

Members Michel Héту, Q.C.
Ms. Adrian Burns
Mr. Andrew E. Fenus

Interim tariffs for the retransmission of distant radio and television signals during 2000

Reasons for decision

At the request of the Copyright Collective of Canada, with the concurrence of all the other parties, the Board adopts, as interim tariffs to be paid for the retransmission of distant radio and television signals during 2000, the text attached to this interim decision. The tariffs are similar to the ones certified by the Board for 1999, also on an interim basis.

The forms contained in Appendices B of the tariffs for 1995 to 1997 shall be used for the interim tariffs. As to Form 2, the form that was used in 1997 shall be used in 2000.

A handwritten signature in black ink that reads 'Claude Majeau'.

Claude Majeau
Secretary to the Board

INTERIM STATEMENT OF ROYALTIES TO BE PAID FOR THE RETRANSMISSION OF DISTANT RADIO SIGNALS IN CANADA DURING 2000

Short Title

1. This tariff may be cited as the *Interim Radio Retransmission Tariff 2000*.

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*)

“**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 system (including a master antenna system), an LPTV system, a multipoint distribution system or a direct-to-home satellite 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.

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*)

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

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 2000 and shall be due

- a. for systems retransmitting a distant signal on December 31, 1999, on January 31, 2000;
- b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in 2000.

(2) A system shall be deemed to be a small retransmission system for 2000 if

- a. on December 31, 1999 the system retransmitted a distant signal and was a small retransmission system;
- b. the system did not retransmit a distant signal on December 31, 1999 and is a small retransmission system on the last day of the month in which it first retransmits a distant signal in 2000; 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 1999 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, 1999 and not on December 31, 1993, only those months during which the systems included in the unit were the same as on December 31, 1999 shall be used.

Unscrambled Low Power Television Stations

5. The royalty for an LPTV system whose signal is not scrambled shall be \$12.50 a year and shall be due

- a. for systems retransmitting a distant signal on December 31, 1999, on January 31, 2000;
- b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in 2000.

Other Retransmission Systems

6. The royalty for any other retransmission system shall be five cents for each premises or TVRO served by the system on the later of December 31, 1999 or the last day of the month in which it first retransmits a distant signal in 2000, and shall be due

- a. for systems retransmitting a distant signal on December 31, 1999, on January 31, 2000;
- b. for all other systems, on the last day of the month after the month in which a distant

signal is first retransmitted in 2000.

Unauthorized Reception of Retransmitted Signals

7. In determining the amount of royalties to be collected by a retransmitter, no account is taken of premises or TVRO's receiving a signal without the direct or indirect authority of the retransmitter.

Francophone Markets

8. (1) Royalties to be collected under section 6 for a system (other than a direct-to-home satellite system) 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 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.

Discount for Certain Non-Residential Premises

9. The royalty to be collected 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 (on behalf of CBRA and CRRR equally): 50 per cent
2. 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. the monthly fee charged by the retransmitter for the reception of radio signals;
- f. the number of premises or TVRO's of each type authorized to receive radio signals, divided into residential, health care, hotels, educational institutions and others;
- g. the number of premises of each type authorized to have more than one outlet for the retransmitted signals;
- h. where possible, the number of premises of each type authorized to have more than two outlets;
- i. 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 1999 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

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

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

Additional Reporting Requirement: MATV Systems

14. A retransmitter who operates a master antenna system shall provide, in addition to the information required under section 11 or 12, the address where the system is located.

Additional Reporting Requirement: Francophone Markets

15. 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 11 or 14,

- a. the name of the city, town or municipality listed in subsection 8(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

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

Reporting Dates

17. The information required under sections 11 to 16 shall be supplied as of December 31, 1999 and shall be provided by January 31, 2000.

Forms

18. The information required under sections 11 to 16 shall be provided on the forms contained in Appendix B, or in any other format that is agreed upon by the collective society and the retransmitter.

Errors

19. 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

20. 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.

21. (1) A retransmitter shall keep and preserve until December 31, 2006, 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, 2006, 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

21A. (1) Subject to subsections (2) and (3), a collective society shall treat in confidence information of a confidential nature 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,
- 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

22. (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

23. (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 24 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.

24. (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

25. (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

26. (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
RADIO TARIFF

Canadian Broadcasters Rights Agency Inc. (CBRA)

155 Queen Street
Suite 1204
Ottawa, Ontario
K1P 6L1
613-232-4370 (Telephone)
613-236-9241 (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)

Canadian Retransmission Right Association (CRRA)

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

**INTERIM STATEMENT OF ROYALTIES TO BE PAID FOR THE RETRANSMISSION
OF DISTANT TELEVISION SIGNALS IN CANADA DURING 2000**

Short Title

1. This tariff may be cited as the *Interim Television Retransmission Tariff 2000*.

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, as amended, and includes a person who operates a cable system (including a master antenna system), an LPTV system, a multipoint distribution system or a direct-to-home satellite 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 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

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

Small Retransmission Systems

4. (1) The royalty for a small retransmission system shall be \$100 for 2000 and shall be due
 - a. for systems retransmitting a distant signal on December 31, 1999, on January 31, 2000;
 - b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in 2000.

- (2) A system shall be deemed to be a small retransmission system for 2000 if
 - a. on December 31, 1999, the system retransmitted a distant signal and was a small retransmission system;
 - b. the system did not retransmit a distant signal on December 31, 1999 and is a small retransmission system on the last day of the month in which it first retransmits a distant signal in 2000; 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 1999 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, 1999 and not on December 31, 1993, only those months during which the systems included in the unit were the same as on December 31, 1999 shall be used.

Unscrambled Low Power Television Stations

5. The royalty for an LPTV system whose signal is not scrambled shall be \$100 a year and shall be due
 - a. for systems retransmitting a distant signal on December 31, 1999, on January 31, 2000;
 - b. for all other systems, on the last day of the month after the month in which a distant signal is first retransmitted in 2000.

Direct-To-Home Satellite Systems

6. The royalty for a direct-to-home satellite 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/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 "Duplicate" Network Distant Signal

12. 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.

Discount for Certain Non-Residential Premises

13. 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

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

1.	BBC:	2.64 per cent
2.	CBRA:	6.03 per cent
3.	CCC:	56.66 per cent
4.	CRC:	11.92 per cent
5.	CRRA:	16.15 per cent
6.	FWS:	1.46 per cent
7.	MLB:	1.59 per cent
8.	SOCAN:	3.55 per cent

ADMINISTRATIVE PROVISIONS

Reporting Requirements: General

15. Subject to sections 16 to 21, 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 Canadian Radio-Television and Telecommunications Commission, 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

16. A retransmitter who operates a small retransmission system shall provide, in addition to the information required under section 15, 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 1999 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

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

- a. the information referred to in paragraphs (a) to (c), (g) and (j) of section 15; and
- b. a description of the location of the LPTV system.

Reporting Requirements: Direct-To-Home Satellite Systems

18. A retransmitter who operates a direct-to-home satellite 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 15.

Additional Reporting Requirement: MATV Systems

19. A retransmitter who operates a master antenna system shall provide, in addition to the information required under section 15 or 16, the address where the system is located.

Additional Reporting Requirement: Francophone Markets

20. 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 15 or 19,

- 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

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

Reporting Dates

22. (1) The information required under sections 15 to 21 shall be supplied as of December 31, 1999 and shall be provided by January 31, 2000.

(2) A retransmitter shall update the information provided in accordance with sections 15 to 21 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

23. The information required under sections 15 to 21 shall be provided on the forms contained in Appendix B, or in any other format that is agreed upon by the collective society and the retransmitter.

Errors

24. 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

25. (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 13.

(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.

26. (1) A retransmitter shall keep and preserve until December 31, 2006, 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, 2006, 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

26A. (1) Subject to subsections (2) and (3), a collective society 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,
- 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

27. (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

28. (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 29 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.

29. (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 15(d) or subsection 22(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

30. (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

31. (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
TELEVISION TARIFF

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 1204
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 CBC
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)