

Copyright Board
Canada



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Citation *Tariff for the Retransmission of Distant Television Signals, 2014-2018*
[Redetermination], 2024 CB 1

Members Luc Martineau, Chair
Nathalie Théberge, Vice-Chair
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**Proposed
Tariff
Considered** *Television Retransmission Tariff, 2014-2018*

**Redetermination
of
*Tariff for the Retransmission of Distant Television Signals, 2014-2018***

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I. OVERVIEW

[1] This is a redetermination of the Copyright Board’s August 2, 2019 decision¹ (the “Original Decision”) in respect of the *Tariff for the Retransmission of Distant Television Signals, 2014-2018*², following judicial review by the Federal Court of Appeal (the “FCA”).³ This redetermination was done by a differently-composed panel of members.

[2] The Copyright Board (the “Board”) has been ordered by the Federal Court of Appeal to

- reconsider the data to use in calculating the proxy price;
- reconsider the profit adjustment;
- redetermine the royalty rates accordingly.⁴

[3] Our reconsideration of the data to use in calculating the proxy price leads us to adjust the calculation in the Original Decision by including missing payments for three Canadian specialty services, by including a missing payment for one United States (US) specialty service, and by removing three double-counted payments for specialty services offered both in high definition and standard definition.

[4] Our reconsideration of the profit adjustment leads us to use a 25% profit adjustment for US specialty services and a 10% profit adjustment for Canadian specialty services.

[5] Our reconsideration of the profit adjustment and the data to be used in calculating the proxy price leads us to redetermine the per-subscriber, per-month, royalty rates for Broadcast Distribution Undertakings (BDUs) with more than 6,000 subscribers (the “Main Rate”) as follows:

- for the year 2014: \$1.06
- for the years 2015–2018: \$1.12

[6] We also redetermine the royalty rates for the following users, as they are based on the Main Rate:

¹ *Tariff for the Retransmission of Distant Television Signals, 2014-2018*, CB-CDA 2019-056 (August 2, 2019) [“Original Decision”].

² *Tariff for the Retransmission of Distant Television Signals, 2014-2018* (Approved Tariff) (August 3, 2019), C Gaz Supplement Vol. 153, No. 31 [“Original Tariff”].

³ *Bell Canada v Copyright Collective of Canada*, 2021 FCA 148 [“FCA Decision”].

⁴ *Copyright Collective of Canada et al v Bell Canada et al.*, Federal Court of Appeal (2021-07-22) (Judgment) [“FCA Judgment”].

- BDUs with 6,000 subscribers or fewer
- BDUs in francophone markets.

II. BACKGROUND

The Retransmission Regime

[7] The “retransmission regime” permits BDUs, such as Rogers or Bell, to retransmit over-the-air broadcast signals without the consent of the broadcasters or the owners of the broadcast programs.⁵ As a condition of this exception, where the retransmitted signals are “distant” signals, BDUs must pay royalties set by the Board.⁶

[8] The Board set such rates for the years 2014–2018 in its Original Decision.

The Board’s Original Decision

[9] In the Original Decision, the Board set the Main Rate as follows:

- for the year 2014: \$1.06;
- for the year 2015: \$1.14; and
- for the years 2016–2018: \$1.17

[10] The Board determined these royalty rates in several steps. It first established a proxy: a set of US and Canadian specialty services⁷ that approximates the contents of retransmitted distant signals.⁸ Next, to determine the proxy price, the Board summed the monthly payments made by BDUs for that proxy, and divided that total by the number of subscribers.⁹

[11] The Board then made several adjustments to the proxy price. One of these adjustments was to account for the profit margin of specialty services.¹⁰

⁵ *Copyright Act*, RSC, 1985, c C-42, s 31(2) [*Copyright Act*].

⁶ *Ibid* at s 31(2)(d).

⁷ In the Original Decision, *supra* note **Erreur ! Signet non défini.**, and the FCA Decision, *supra* note 4, Canadian specialty services are sometimes referred to by their CRTC designation as “Category B” services.

⁸ Original Decision, *supra* note 1, at paras 419–424; FCA Decision, *supra* note 4, at para 24.

⁹ Original Decision, *supra* note 1, at para 426; FCA Decision, *supra* note 4, at paras 25–26.

¹⁰ Original Decision, *supra* note 1, at paras 428–431; FCA Decision, *supra* note 4, at para 27.

Federal Court of Appeal

[12] The BDUs¹¹ and the Collectives¹² each applied for judicial review of the Board's decision to the Federal Court of Appeal. The Federal Court of Appeal dismissed the BDUs' application, and partially granted the Collectives' application.¹³

[13] In its decision, the FCA held that

- when it calculated the proxy price, the Board used information that was superseded by evidence later placed on the record;¹⁴ and
- the Board used an adjustment of 25% to the profit margin, stating that there was no evidence to support a 10% discount, despite the fact that Dr. Tasneem Chipty, an expert witness, opined that an adjustment of 10% would be appropriate.¹⁵

[14] In its Judgment, the FCA ordered that

[t]he Board's decision is set aside only to the extent of its use of the wrong pricing data in its proxy price calculation and of the wrong profit margin. The matter is therefore remitted to the Board for redetermination of the rates in accordance with these reasons.¹⁶

Procedural History of Redetermination

[15] At the initiation of this redetermination, the Board ruled that the Parties would not be permitted to file new evidence, but that they would be permitted to comment on the Board's calculations.¹⁷ Additionally, the Parties were permitted to identify portions of the record that they wished to draw to the Panel's attention¹⁸, and they did so.¹⁹

¹¹ As of the date of the Original Decision, the BDUs are: Bell Canada, Cogeco Cable Inc., Rogers Communications Inc, TELUS Communications Inc, and Videotron G.P. Data from Cogeco and Videotron were not used in the Original Decision.

¹² The Television Retransmission Collectives are: Border Broadcasters, Inc. (BBI), Canadian Broadcasters Rights Agency (CBRA), Canadian Retransmission Collective (CRC), Canadian Retransmission Right Association (CRRA), Copyright Collective of Canada (CCC), Direct Response Television Collective Inc. (DRTVC), FWS Joint Sports Claimants Inc. (FWS), Major League Baseball Collective of Canada, Inc. (MLB), Society of Composers, Authors and Music Publishers of Canada (SOCAN).

¹³ FCA Decision, *supra* note 4, at para 96.

¹⁴ FCA Decision, *supra* note 4, at para 64.

¹⁵ FCA Decision, *supra* note 4, at paras 71–72.

¹⁶ FCA Judgment, *supra* note 4.

¹⁷ Ruling of the Board CB-CDA 2022-038, June 29, 2022.

¹⁸ *Ibid.*

¹⁹ Response of the Collectives to Ruling CB-CDA 2022-038, July 29, 2022; Response of the BDUs to Ruling CB-CDA 2022-038, July 29, 2022.

[16] Subsequently, the Board provided the Parties with a set of calculations (the “Preliminary Calculations”), along with an explanation of the calculations.²⁰ The Preliminary Calculations related to both issues for reconsideration: the use of the correct data for the proxy price as well as the profit margin. Parties were permitted to comment on the calculation steps themselves, as well as on any assumptions the Board made in performing its calculations.

III. ISSUES

[17] We consider the following issues in turn:

- A. Using the correct data in the proxy price calculation;
- B. The appropriate profit adjustment to use for the specialty services in the proxy;
- C. Given our conclusions on issues A and B, our redetermination of the Main Rate;
- D. Redetermination of Special Rates;

IV. ANALYSIS

A. USING THE CORRECT DATA IN THE PROXY PRICE CALCULATION

i. Summary

[18] In this redetermination, the Board provided the Parties, for their comments, Preliminary Calculations containing a calculation of the proxy price.

[19] Based on the submissions from the Parties, we make two modifications to the Preliminary Calculations: removing double-counted payments and removing one imputed payment. Other than these changes, we use the same data and in the same manner as the Preliminary Calculations to determine the proxy price.

[20] This means that we are correcting the calculation of the proxy price in the Original Decision in areas not raised by the Parties on judicial review.

[21] We conclude that we can and should make such corrections in our redetermination of the proxy price since:

- the FCA did not endorse the remainder of the calculation of the proxy price;

²⁰ Notice of the Board CB-CDA 2023-006, February 6, 2023.

- the identification of the double-counting was a practical consequence of the steps taken in the redetermination; and
- not making the corrections would be contrary to the Board's mandate to fix fair and equitable royalty rates.

ii. Context

Original Decision

[22] In the proceeding leading to the Original Decision, the Collectives posed a number of interrogatory questions to the BDUs relating to the payments the BDUs made for specialty services. The responses were used by expert witnesses Dr. Tasneem Chipty, Prof. Jeffrey Church, and Dr. Gerry Wall in their respective reports.

[23] For various reasons, including a lack of available data, these BDUs' responses did not include all payments for all specialty services provided by the BDUs. As such, during the oral hearing, the BDUs undertook to provide certain missing payment data, and to update other payment data. Each of the BDUs provided these data after the conclusion of the oral hearing (the "Undertakings Data").²¹

[24] Certain tables in Prof. Church's expert report containing payment data were updated based on these Undertakings Data. This included the summary table of payments²² relied on by the Board in its Original Decision to determine the payments made by BDUs to US specialty services.

[25] By contrast, no such update was provided for the table of payments in Dr. Chipty's Report²³. The Board relied on this table in its Original Decision to determine the payments made by BDUs to Canadian specialty services.

[26] The fact that the Board relied on this un-updated data for Canadian specialty services was one of the grounds on which the Collectives sought judicial review of the Original Decision.

Judicial Review

[27] At the FCA, the Collectives contended that when the Board calculated the payments for Canadian specialty services in the proxy, it relied on an incomplete and superseded version of the

²¹ Exhibits BDU-22 (Bell), BDU-28 (Shaw), BDU-29 (Telus), BDU-31 (Rogers).

²² Exhibit Collectives-57, Appendix 3 (being an update of Collectives-3, Appendix B, Table 7).

²³ Exhibit BDU-2A, Appendix C.

pricing data. The FCA agreed, and “set aside the Board’s decision to the extent of its use of the wrong pricing data in its proxy price calculation.”²⁴

The Preliminary Calculations

[28] In this redetermination, the Board provided the Parties with a set of Preliminary Calculations (see paragraph [18]). The purpose of providing Preliminary Calculations was to help ensure that:

- all of the information used in calculating the total payments for the specialty services in the proxy was the most recent available on the record,
- the Board’s calculations were correct, and
- the Board’s assumptions made in using the information were appropriate.

[29] The Preliminary Calculations used the same methodology as the Board did in its Original Decision.

[30] To ensure that the Board used the most up-to-date information for all payments, the Preliminary Calculations combined the data in Dr. Chipty’s expert report (the “Chipty Report Data”)²⁵, with the Undertakings Data. As such - unlike the Original Decision - the Preliminary Calculations did not rely on the Collectives’ summary table of payments for US specialty services.

[31] To determine the proxy price, the Preliminary Calculations added all the payments for specialty services in the Board’s proxy contained in the Chipty Report Data as well as all payments contained in the Undertakings Data. It then divided this sum of payments by the number of subscribers.

Double-Counting of Payments Identified

[32] In their submissions on the Preliminary Calculations, the BDUs alleged that certain payments were being double counted. According to the BDUs, there were three instances where only a single payment had been made for both the Standard Definition (SD) and High Definition (HD) versions of a specialty service, but that it appeared twice in the data used by the Preliminary Calculations: once in relation to the SD version of a specialty service (in the Chipty Report Data), and again in relation to the HD version (in the Undertakings Data).

²⁴ FCA Decision, *supra* note 4, at para 96.

²⁵ Exhibit BDU-2, Appendix C (Chipty).

[33] The BDUs submit that including both figures when adding up all the payments would amount to double-counting, and that the double-counting should be removed.

[34] Choosing to remove these instances of double-counting would decrease the proxy price from that calculated by the Preliminary Calculations.

Missing Telus-Fox payment data

[35] In addition, the Preliminary Calculations included a payment made by Telus for the specialty service “Fox News” - a payment that was absent in the summary table of payments relied on by the Board in its Original Decision.

[36] Choosing to include this payment could be characterized as a “correction” to the proxy price calculation, but was not addressed by the Parties in their submissions.

iii. Questions considered

[37] For our reconsideration of the proxy price calculation, we address the following questions:

- a. Can we make corrections to the proxy price calculation that were not raised by Parties on judicial review?
- b. Which data should we use, and how?

a. Can we make corrections to the proxy price calculation?

Context

[38] The identification of the alleged instances of double-counting was, for practical purposes, unavoidable.

[39] The Board’s Original Decision did not separately state the subtotals of payments for US specialty services and Canadian specialty services, as it provided only a single total at paragraph 425. Because the Preliminary Calculations were based on the preliminary view that a different profit adjustment would be applied to US and Canadian specialty services (and this is the conclusion we reach here; see paragraph [131]), the Preliminary Calculations had to determine these subtotals separately.

[40] The intermediary steps in the calculation of the proxy price were not provided to the Parties during the proceeding leading to the Original Decision, nor were they shown in the Original Decision itself. When the Parties were presented with these intermediary steps for the first time during this redetermination, this brought to light the purported instances of double-counting.

Position of the Parties

[41] The Collectives submit that the Board cannot, and should not remove the instances of purported double-counting because it would amount to a deviation from the manner in which the proxy price was calculated in the Original Decision and go beyond the scope of redetermination permitted by the FCA's Judgment.²⁶

[42] The Collectives characterize the FCA's findings as being only about the "missing payment data...for the three Canadian services included in the Board's proxy."²⁷ According to them, the FCA's statement that "the Board erred and relied on superseded information in calculating the total BDU payments" must refer to the information about the three Canadian specialty services.²⁸

[43] They therefore submit that the Board is constrained by the Judgment and Reasons for Decision of the Federal Court of Appeal and that it may only correct the missing payment data for the three Canadian specialty services included in the Board's proxy and make no other changes from the Original Decision in respect of the use of the payment data.²⁹

[44] In contrast, the BDUs submit that these instances of double counting must be corrected.³⁰ According to them, the Board can and must use all the data before it correctly.³¹

[45] The BDUs characterize the FCA's findings as being about the general principle of the Original Decision not being based on the evidence before it. They consequently argue that not to correct any discovered errors now would mean that i) the result arrived at by the Board would still be unreasonable as it would not be based on the evidence that was before it; and ii) would amount to not using the same methodology as the Original Decision.³²

Case law

[46] The Board cannot unilaterally perform a review of its own decision, whether an error is obvious or not, or whether it is significant or not. The Board requires direction from a reviewing

²⁶ Collectives reply to BDU's response to Notice CB-CDA 2023-006, May 26, 2023, at para 11.

²⁷ FCA Decision, *supra* note 4, at para 62, cited in Collectives reply to BDU's response to Notice CB-CDA 2023-006, May 26, 2023, at para 16.

²⁸ FCA Decision, *supra* note 4, at para 64, cited in Sur-Sur-Reply of the Collectives on the Jurisdiction of the Board, June 26, 2023, at paras 15-19.

²⁹ Sur-Sur-Reply of the Collectives on the Jurisdiction of the Board, June 26, 2023, at para 3.

³⁰ BDU Sur-reply on Board's Jurisdiction to Correct Payment Data Errors (June 13, 2023).

³¹ Sur-Reply of the BDUs on the Jurisdiction of the Board, June 13, 2023, at p 1.

³² Sur-Reply of the BDUs on the Jurisdiction of the Board, June 13, 2023, at p 4.

court.³³ In this instance, a redetermination has been ordered by the Federal Court of Appeal, and the purported errors were found in the process of this redetermination.

[47] We agree with the Collectives that the authority relied on by the BDUs, *Burton v. Canada (Citizenship and Immigration)*, 2014 FC 910, does not support the proposition that, in a redetermination, a tribunal can automatically examine all evidence anew: the Board must take into account the decision and findings of the Federal Court of Appeal.³⁴

[48] However, while the BDUs and the Collectives agree that *Canada (Commissioner of Competition) v. Superior Propane Inc.*, 2003 FCA 53 sets out a framework for determining whether a tribunal has acted within its authority on a redetermination, they fundamentally disagree on how to characterize the FCA's findings in its judicial review of the Original Decision, and the directions it gave the Board.

Analysis

[49] In this instance, the FCA's judgment stated that "[t]he Board's decision is set aside only to the extent of the use of the wrong pricing data in its proxy price calculation."

[50] The Collectives state that "the wrong pricing data" can only refer to the wrong data that was brought to the attention of the FCA: missing payments in relation to three Canadian specialty services. The BDUs counter that the Court did not direct the Board to come to any particular conclusion in its redetermination, but rather only directed to Board to use the correct pricing data in its proxy price calculation.

[51] Thus, according to the Parties, either the Board may correct all newly-identified errors in the calculation (i.e., including previously omitted data and not double-counting certain payments), or it may not correct any.

[52] The Board needs to decide whether it should purposefully ignore apparent errors — merely alerting the parties and any reviewing court to their existence — or whether it should correct the calculation of the proxy price in the Original Decision in areas not raised by the Parties on judicial review.

[53] While we agree with the Collectives that the FCA would have only been aware of the potential errors with regards to the three Canadian specialty services, the FCA's reasons do not

³³ *Canadian Association of Film Distributors and Exporters v Society for Reproduction Rights of Authors, Composers and Publishers in Canada (SODRAC) Inc.*, 2014 FCA 235.

³⁴ *Canada (Citizenship and Immigration) v Yansane*, 2017 FCA 48.

appear to endorse the remainder of the summation of payments, leaving the particular implementation of the calculation up to the Board.

[54] Furthermore, the Board has a statutory mandate to fix fair and equitable royalty rates.³⁵ In our view, adopting the strict interpretation of the FCA's judgment put forward by the Collectives would result in the Board not meeting this fundamental requirement.

[55] Last, correcting the calculation errors does not, in our view, conflict with the FCA's direction that the Board not perform "a reconsideration of the overall approach implemented by the Board."³⁶

[56] We therefore conclude that we can redetermine the proxy price using all of the data correctly.

b. Which data should we use, and how?

[57] Only a few issues were identified with the manner in which the Preliminary Calculations lead to the proxy price. We address these below. Other than these, we conclude we should determine the proxy price in the same way as the Preliminary Calculations.

Imputed Payment

[58] The Undertaking Data contained a blank entry for one of the payments by a BDU for a Canadian specialty service. The Preliminary Calculations assumed this to be an omission or mistake, and replaced this blank with an imputed payment.

[59] In their submissions on the Preliminary Calculations, the BDUs informed the Board that the blank did, in fact, mean \$0.³⁷

[60] We accept this submission, and use the figure of \$0 in our calculation of the proxy price.

Updated Payment Data for Canadian Specialty Services

[61] The data for the Canadian specialty services came from the Dr. Chipty Report, supplemented by the Undertakings Data. The total of the payments for the Canadian specialty services in the Preliminary Calculations were \$1,237,925.³⁸

³⁵ *Copyright Act*, *supra* note 5, s. 66.501.

³⁶ FCA Decision, *supra* note 4, at para 82.

³⁷ BDU response to Notice CB-CDA 2023-006 (20 April 2023), Appendix A at para 3.

³⁸ Notice of the Board CB-CDA 2023-016, April 3, 2023, Annex C, tab vi.

[62] Save for the BDUs' submission on one imputed payment (see paragraph [35]), the Parties did not make any submissions on the data and calculations for Canadian specialty services.

[63] Given our conclusion not to make an imputed payment where a payment was reported as nil (see paragraph [60]), we determine the sum of the payments for the three Canadian specialty services to be \$678,216. This compares to the sum of \$403,950 that would have been obtained using only the Canadian data in Dr. Chipty's Report, this being the relevant source of data for Canadian specialty services to which the Board referred in its Original Decision.

Duplicate Payments for specialty services offering both SD and HD

[64] The Collectives contend that the BDUs' claims regarding the data representing double-counting are unsubstantiated.³⁹

[65] We disagree. First, the BDUs are in a good position to understand the meaning of the data they provided. Second, in the claimed instances of double-counting, the BDUs reported nearly identical subscriber and payment amounts for both the SD and HD versions of a specialty service they offered. This supports the contention that these data are duplicative.

[66] We conclude that the payments identified by the BDUs in the Preliminary Calculations represent instances of double-counting. Therefore, we choose to calculate the total payments made for the specialty services in the proxy, ignoring the duplicative entries.

Payments by Telus for Fox News

[67] The Collectives' summary table of payments used by the Board in the Original Decision was missing an entry for the payments made by Telus for the specialty service Fox News. The Preliminary Calculations, not being based on the summary table, included such payments.

[68] The Parties did not mention this difference in any of their submissions.

[69] As we do in respect of the double-counting analysis, we prefer the underlying data on which the summary table was based, and therefore include this data in our calculation of the proxy price.

Conclusion

[70] Neither the Parties, nor we, have identified any other issues with the Preliminary Calculations. As such, after removing double-counted payments, and not imputing a price in the

³⁹ Collectives' reply to BDU's response to Notice CB-CDA 2023-006 (May 26, 2023) at paras 21–25.

one instance where no price was reported, we use the data in the same manner as in the Preliminary Calculations. Our calculations appear below in our redetermination of the Main Rate, at paragraphs [136]-[153].

B. PROFIT ADJUSTMENT

i. Summary

[71] Having considered the evidence in its totality, we conclude that:

- a 25% discount for US specialty services is appropriate, being more supported by the evidence than the use of a 10% discount; and
- the use of a 10% discount for Canadian specialty services is appropriate, being supported by Dr. Chipty's synthesis of Canadian Radio-television and Telecommunications Commission (the CRTC) data.

ii. Context

The Original Decision

[72] One of the adjustments made by the Board in determining the royalty rate in the Original Decision was in respect of profit of specialty services. The Board held that it should make a downward adjustment of 25% for both Canadian and US specialty services.

[73] The relevant portion of the Original Decision reads as follows:

[429] In her approach, Dr. Chipty proposes a 25 per cent adjustment on the payments of Canadian category B specialty services. This is the average profit margin of Canadian category B specialty services. Due to the lack of a better measure, she applied a 10 per cent adjustment on the payments of U.S. specialty services.

[430] In our opinion, a 10 per cent adjustment on the payments of U.S. specialty services is too low since there is no reason to believe that the profit margin of the U.S. specialty services is lower than that of the Canadian category B specialty services, nor has any party led any evidence to this effect. Therefore, we apply a 25 per cent discount on all services in the proxy to exclude the profit portion of the payments.⁴⁰

⁴⁰ Original Decision, *supra* note 1, at paras 429–430.

[74] The Federal Court of Appeal held that the portion of the Board's Original Decision dealing with the adjustment for profit was unreasonable. It stated that the Board overlooked the distinction between vertically integrated and non-vertically integrated specialty services and

indirectly reintroduced the previously excluded vertically integrated services by using their profit margin data. This also led the Board into further error when applying the same 25% figure to the U.S. specialty services, on the basis that "there is no reason to believe that the profit margin of the U.S. specialty services is lower than that of the Canadian category B specialty services" (Reasons, para. 430). This assessment is based on a false premise and overlooks Dr. Chipty's evidence that U.S. specialty services included in the proxy have a lower profit margin because they are not vertically integrated with the BDUs.⁴¹

iii. Position of the Parties

[75] The Collective's submit that the only option available to the Board is to use a 10% profit margin adjustment for Canadian and US specialty services.

[76] The BDU's submit that the only option available to the Board is to use a 25% profit margin adjustment for Canadian and US specialty services.

iv. Questions considered

[77] We consider the evidence relating to the issue of the profit margin, namely:

- a. Dr. Chipty's expert report and testimony;
- b. Financial data for US media companies (Notice 2016-088); and
- c. Payments by BDUs for specialty services in the proxy

[78] Given that the FCA sent the issue of profit adjustment back to the Board due to the Board's appreciation of the evidence, and given that the description of the evidence in the Original Decision was perhaps terse, we describe in greater detail that evidence here.

⁴¹ FCA Decision, *supra* note 4, at para 71.

a. Dr. Chipty's Expert Report and Testimony

Expert Report

[79] In her expert report, as part of her calculation of a benchmark rate, Dr. Chipty stated that:

it would be inappropriate to credit distant signals with total payments made by the BDUs to the benchmark services. To address this issue, I limit total monthly payments to payments sufficient to cover all service costs. These costs conservatively include programming costs incurred by the services (and paid to the rights holders), the costs of compilation, and other costs to which the distant signal rights holders are not entitled.⁴²

[80] In other words, in her opinion, the total payments made by BDUs to benchmark services would overstate the “value” being measured. Instead, the payments included in a proxy price should be limited to service costs.

[81] Dr. Chipty estimated the service costs for the following groups of specialty services:

1. all Canadian “Category B” specialty services (*i.e.*, both vertically integrated and non-vertically integrated);
2. non-vertically integrated Canadian “Category B” services; and
3. US specialty services.

[82] In order to do so, Dr. Chipty analyzed data from the CRTC relating to Canadian “Category B” services. She concluded that “about 75 percent of all Category B service revenues and about 90 percent of all non-vertically integrated Category B service revenues go towards covering service costs.”⁴³

[83] This would imply a 25% downward adjustment to payments for Category B specialty services as a whole (both vertically integrated and non-vertically integrated), but only a 10% adjustment to payments for the subset of Category B specialty services that are not vertically integrated.⁴⁴

⁴² Exhibit BDU-2 at para 24.

⁴³ Exhibit BDU-2 at para 25.

⁴⁴ Exhibit BDU-2A, Table 1.

[84] In its Original Decision, the Board characterized the purpose of these downward adjustments as excluding profit from the proxy price.⁴⁵ In other words, these 25% and 10% figures represented a profit margin to be excluded from the proxy payments.

[85] However, as noted by Dr. Chipty, “[t]he CRTC does not provide comparable information for the U.S. specialty services.”⁴⁶ As such, Dr. Chipty used the following reasoning to make an assumption about the service costs for US specialty services:

Because the U.S. specialty services are not vertically integrated with BDUs, I assume U.S. specialty services have a higher cost structure (and lower “profit before income and taxes”) like the non-vertically integrated Category B services. Thus, I calculate a starting benchmark rate using 75 percent of total monthly payments made by the BDUs to the Category B services and 90 percent of total monthly payments made by the BDUs to the U.S. specialty services.⁴⁷

[86] If accepted, this assumption would imply a 10% downward adjustment to payments for US specialty services.

Our Evaluation of the Evidence

[87] Unlike a court, the Board is not bound by — and does not follow — strict rules of evidence.⁴⁸ In particular, the Board does not qualify experts. One consequence of this is that the Board assesses the weight to be given to any evidence, including expert evidence, based on the characteristics of the evidence and the context in which the evidence is provided.

[88] For Canadian Category B Services, the 10% discount used by Dr. Chipty is based on CRTC data. Because we believe that CRTC data are accurate, and given that Dr. Chipty’s synthesis of these data was not challenged, we give this figure significant weight.

[89] In contrast, we do not find persuasive the assumption that U.S. specialty services require only a 10% discount.

[90] First, the assumption was not based on any particular evidence about US specialty services, beyond the fact that these services were not vertically integrated with Canadian BDUs.

⁴⁵ Original Decision, *supra* note 1, at paras 428–430.

⁴⁶ Exhibit BDU-2 at para 25.

⁴⁷ *Ibid.*

⁴⁸ See *e.g. Canadian Recording Industry Association v Society of Composers, Authors and Music Publishers of Canada*, 2010 FCA 322 at paras 28–31.

[91] However, just because such services are not vertically integrated with Canadian BDUs does not mean that they are not vertically integrated with US cable companies.⁴⁹ In fact, at least some of the US specialty services in the proxy (MSNBC, MSNBC HD, and the Golf Channel) are vertically integrated with US cable companies.⁵⁰ Others may be as well.

[92] In Canada, according to Dr. Chipty, the Canadian Category B specialty services as a whole had an overall profit margin of 25%. To the extent the profit of (both vertically integrated and non-vertically integrated) Canadian specialty services can be used as a benchmark for US specialty services (also vertically integrated and non-vertically integrated), such a benchmark would support the 25% figure more than the 10% figure.

[93] Second, on examination, Dr. Chipty stated that publicly available data shows margins higher than 10% for US services and stated that the use of using a 10% figure is likely to over-price the proxy.⁵¹ Thus, she – herself - put into question the validity of the 10% figure for US services.

[94] Last, we note that Dr. Chipty did not state that this assumption was based on her expert knowledge of the US specialty services market, nor is this a field that Dr. Chipty identifies as a domain in which she is an expert: “microeconomics, empirical methods, and industrial organization – the study of how markets function, including competitive interactions among firms and consumer demand.”⁵²

[95] As such, we do not give much weight to the assumption that US specialty services would have a 10% profit margin.

b. Financial data for US media companies

Notice 2016-088

[96] In Ruling 2022-038, the Board invited the Parties “to identify portions of the existing record that they wish to draw to the Panel’s attention” for this redetermination. One such portion identified by the BDUs were Notices 2016-088 and 2016-094, and the Parties’ responses to these Notices.

⁴⁹ Cross-examination of Dr. Chipty, Copyright Board Transcript Vol 11 (Highly Confidential), at pp 1051–1052. The statement in Original Decision *supra* note 1 at para 307 (“no U.S. specialty services and U.S. distant signals are vertically integrated”) was referring to vertical integration with a Canadian BDU.

⁵⁰ These were referred to in Notice CB-CDA 2016-088 BDU’s reply to Collectives’ response to Notice CB-CDA 2016-088 (attachment: Pages from Comcast 2013 10K.pdf).

⁵¹ Copyright Board Transcripts Vol 10 (Public), p. 1331, lines 9-24.

⁵² Exhibit BDU-2 at para 1.

[97] In Notice 2016-088, the Board had identified “10-K” reports of four US media companies and two commentaries on the finances of US media companies, and permitted Parties to comment on these.⁵³ Notice 2016-088 stated that

Board staff researched the profit margins of some U.S. TV providers. These providers own U.S. specialty services, and some of these specialty services have been used in the benchmarked services used by Professor Church and Dr. Chipty to set retransmission royalties. This information suggests that the providers may make an average profit of 25 to 35 per cent per year by providing specialty services.⁵⁴

[98] Notice 2016-094 reproduced or summarized portions of the information referred to in Notice 2016-088, and explained how certain calculations were done in the latter Notice.

[99] In the Original Decision, the Board stated that it did not rely on the information in Notice 2016-088 to make its determination of the appropriate profit adjustment, but that it provided “a comfort level as to the reasonableness of the adjustment.”⁵⁵

Can the Board rely on the information referred to in Notice 2016-088?

[100] During the proceeding leading to the Original Decision, the Collectives had raised an issue of procedural fairness: they claimed they had insufficient context to be able to comment meaningfully on the data in Notice 2016-088.

[101] The Original Decision did not address the procedural issue raised by the Collectives. Since we consider the information referred to in Notice 2016-088, we address the procedural issue here.

[102] In their initial response to Notice 2016-088, the Collectives submitted they did not know the nature, context or scope of the factual inquiries made by the Board staff, or the use being made by the Board of this new information and analysis. As such, they requested further detail from the Board.⁵⁶

[103] In response, the Board issued Notice 2016-094 where it provided further details regarding the data it used and provided explanations with respect to relevance of the data and the purpose for which it was to be used.

⁵³ Notice of the Board CB-CDA 2016-088, October 27, 2016.

⁵⁴ *Ibid* at p1.

⁵⁵ Original Decision, *supra* note 1, at para 436.

⁵⁶ Letter of the Collectives to the Board, November 3, 2016, at p 1.

[104] In particular, Notice 2016-094 stated that:

As described in Question 1 in Notice [CB-CDA 2016-088], the issue of profit margins was addressed by Dr. Chipty and Professor Church in their submissions. It is thus a live issue in this matter. Furthermore, since both Dr. Chipty and Professor Church use specialty services from the US in constructing their proxy, it is the profit margins of these specialty services that are at issue.

The purpose of Question 1 was to provide the parties with an opportunity to make submissions on the relevance and reliability of the identified documents, as well as on the proposition that the information in Documents 1-6, taken together, “suggests that the providers may make an average profit of 25 to 35 per cent per year by providing specialty services.”⁵⁷

[105] Despite this, the Collectives continued to claim that it is unclear and unknown how the Board intends to use the information in Notice 2016-088.⁵⁸

[106] On December 9, 2016, the Parties responded to the Board’s questions regarding these new data; on December 22, 2016, the Parties replied to one another’s responses. These responses and replies constituted the opportunity of the Parties to make submissions on the information contained in Notices 2016-088 and 2016-094.

[107] To the extent that there was any uncertainty with any procedural unfairness earlier in the proceeding, it was addressed by the procedural steps taken on or before December 22, 2016. Both Parties, including the Collectives, were informed about how the Board intended to use the information, and had the opportunity to comment on the relevance and reliability of the information in relation to the issue profit margin.

[108] As such, we conclude there is no procedural unfairness in relying on the information in Notice 2016-088.

Should the Board rely on the information referred to in Notice 2016-088?

[109] Given our conclusion that we can rely on the information referred to in Notice 2016-088 (which was partly reproduced in Notice 2016-094), we need to determine the weight it should be given.

⁵⁷ Notice of the Board CB-CDA 2016-094, November 18, 2016, at p 3.

⁵⁸ Collectives’ response to Notice CB-CDA 2016-094 and Notice CB-CDA 2016-088 (December 9, 2016).

[110] In their submissions during the Original Decision, the Collectives, while not disputing that the financial data disclosed in the 10-K reports are accurate,⁵⁹ raised three substantive issues about their use in the Board's decision:

1. Are the data referred to in the Notice internally consistent?
2. Do the business segments identified by the Board reasonably reflect specialty-services activities within these large US firms?
3. Is operating profits a good measure of profits for the sale of US specialty services to Canadian BDUs?

[111] We address these issues in turn.

1. Are the data put forward by the Board internally consistent?

[112] The sources for Table 1 of Notice 2016-088 were four separate Form 10-K filings⁶⁰ in respect of four large companies: Comcast, Fox, TimeWarner, and Viacom. The source for Table 2 was a blog post on TVweek.com, which described itself as "the insider's guide to the business behind the screens."

[113] The Collectives alleged that the data in Tables 1 and 2 were not consistent with one another, sometimes differing by billions of dollars.⁶¹

[114] However, as the BDUs note, the source for Table 2 only examines the first three quarters of 2013, whereas the 10-K data cover the entire year. Adjusting the data accordingly eliminates the inconsistency.⁶²

2. Do the segments identified by the Board reasonably reflect specialty-services activities within these large US firms?

[115] The TVweek.com blog, mentioned above and cited in Notice 2016-088, refers to these companies as "giant media corporations." These corporations own specialty services (referred to in the US as "cable channels") and other businesses. The Collectives question how one can be sure that the profits the Board is measuring relate to specialty services?⁶³

⁵⁹ Response of the Collectives to Notice CB-CDA 2016-088, December 9, 2016, at para 15.

⁶⁰ A Form 10-K is a document the Securities and Exchange Commission requires all public companies to file each year. Among other things, it details a companies' revenues, assets, and liabilities for the previous year.

⁶¹ Response of the Collectives to Notice CB-CDA 2016-088, December 9, 2016, at paras 19-20.

⁶² Reply of the BDUs to the Response of the Collectives to Notice CB-CDA 2016-088, December 22, 2016, at paras 21-28.

⁶³ Response of the Collectives to Notice CB-CDA 2016-088, December 9, 2016, at para 16.

[116] Notice 2016-094 names the segments used as follows⁶⁴:

Corporation	Segment Used
Comcast	Cable Networks
Fox	Cable Network Programming
Time Warner Inc.	HBO plus Turner
Viacom Inc.	Media Networks

[117] We recognize that it is possible for these segments to contain components unrelated to specialty services. If so, those components are small—otherwise they would have been identified and discussed in the Form 10-K reports.

[118] As such, any unidentified component would have a small effect on the overall profit margins reported for these segments; the overall figures are reliable indicia of profit.

3. Is operating profits a good measure of profits for the sale of US specialty services to Canadian BDUs?

[119] The Collectives raised the issue of whether operating profits are an indication of market power.⁶⁵ As they note, operating profits are a short-run measure; they do not speak to the extent to which the owners of US specialty services can make profits in the long run.

[120] In addition, the Collectives assert that operating profits are not equivalent to the complement of “cost-share”, as that term is defined by Dr. Chipty.⁶⁶ This is because there is no indication that the operating profits in the US market is relevant to the profits recorded on transactions between US specialty services and Canadian BDUs.

[121] The BDUs reply that to the extent that these costs are included in Dr. Chipty’s estimate, her estimate is conservative. As Dr. Chipty explained in her report, only the programming cost is truly relevant to the analysis and every other cost should be removed. She did not have enough information to isolate programming costs, and instead removed only the specialty service’s profit, so her estimate was conservative to begin with, in that it allocated more revenue to the programming costs than just the cost of the programming.⁶⁷

⁶⁴ Excerpted from Notice 2016-094, Table 2.

⁶⁵ Response of the Collectives to Notice CB-CDA 2016-088, December 9, 2016, at para 27.

⁶⁶ Response of the Collectives to Notice CB-CDA 2016-088, December 9, 2016, at para 35.

⁶⁷ BDUs’ Reply to the Collectives’ Response to Notice 2016-088, December 22, 2016, at para 33.

[122] With respect to the Canadian and US markets, the BDUs reply by noting that “services purchase the Canadian rights to US-produced programming from US media firms in the US.”⁶⁸

[123] In our view, operating profits are a good measure of profits. While the Collectives point out that there may be better measures, including ones that take the long run into account, this does not convince us that this measure cannot be used here.

Conclusion

[124] Having considered the issues raised by the Collectives, we conclude nevertheless that this data is a useful indicator of the profit margins of US specialty services, indicating that a 25% figure would be a conservative estimate.

c. Payments by BDUs for specialty services in proxy

[125] For completeness, we note that the Preliminary Calculations included calculations that related to the profit margin of US specialty services. Given the Parties’ comments on these calculations, we do not rely on them in this decision.

[126] The Preliminary Calculations assumed that the lowest observed price for a given US specialty service would be an approximate indicator of the price at which there would be no profit. From this, it would be possible to estimate the average profit realized by a specialty service when it was sold to the four BDUs in our proxy calculations. These average profits could, in turn, provide an indicator of the approximate overall profit margins contained in the pricing data related to the proxy.

[127] However, in their comments on the Preliminary Calculations, both the BDUs and Collectives submitted that the Board should not rely on the Preliminary Calculations to evaluate the profit margin of US specialty services.⁶⁹ Their submissions raised both procedural and substantive issues.

[128] In particular, the BDU’s raised the following substantive issues:

- The Board’s allocation of prices among SD and HD versions of a specialty service are difficult to verify, given the age of the data;⁷⁰ and

⁶⁸ BDUs’ Reply to the Collectives’ Response to Notice CB-CDA 2016-088, December 22, 2016, at para 31.

⁶⁹ Comments of the BDUs on Notice CB-CDA 2023-006; Comments of the Collectives on Notice 2023-006.

⁷⁰ Comments of the BDUs on Notice CB-CDA 2023-006, April 20, 2023, at p 1.

- Given that most costs of a specialty service are fixed, the pricing will not meaningfully related to a “break even” price.⁷¹

[129] We accept these critiques of the approach in the Preliminary Calculations, and conclude that we should not use the calculations as an indicator of profit margin.

[130] Since we do not use or otherwise rely on that portion of the Preliminary Calculations, it is not necessary to address any procedural issues raised by the Parties in respect of the portion of the Preliminary Calculations related to profit margin.

v. Conclusion on Profit Adjustment

Canadian Category B Services

[131] For non-vertically integrated Canadian Category B Services, the evidence strongly supports the use of a 10% discount to adjust for profit. This figure is directly based on CRTC data.

US Specialty Services

[132] For US specialty services, the use of a 25% figure is more supported by the evidence than a 10% figure.

[133] First, the information referred to in Notice 2016-088 shows that average profits of between 25% to 35% are typical among US specialty services.

[134] Second, US specialty services are both non-vertically integrated and vertically integrated. According to Dr. Chipty, based on CRTC data, all Canadian Category B Services—each of which may be either vertically integrated and non-vertically integrated—together have a profit margin of 25%.

[135] Last, Dr. Chipty’s initial assumption for US specialty services, in support of a 10% figure was tempered by Dr. Chipty’s subsequent statements that publicly available data support a higher figure (as described at paragraph [93]).

⁷¹ Comments of the BDUs on Notice CB-CDA 2023-006, April 20, 2023, at p 8.

C. REDETERMINING THE MAIN RATE

i. Calculating the Per-Subscriber Price

The Unadjusted per-Subscriber Price

[136] In its Original Decision, the Board first determined the total payments made by four BDUs (Bell, Rogers, Shaw, and Telus) for the specialty services in the proxy, and then divided that price by the number of subscribers. We do so here as well.

[137] We use the same set of specialty services as the Board did in the Original Decision (Table 1).⁷²

Table 1: Specialty Services in Proxy

Specialty Service	Type
A&E	U.S. specialty service
A&E HD	U.S. specialty service
AMC	U.S. specialty service
BET	U.S. specialty service
Bloomberg	U.S. specialty service
CNBC	U.S. specialty service
CNN – Cable News	U.S. specialty service
FOX News Channel	U.S. specialty service
Golf Channel	U.S. specialty service
Game Show Network	U.S. specialty service
HLN	U.S. specialty service
Military Channel	U.S. specialty service
MSNBC	U.S. specialty service
MSNBC HD	U.S. specialty service
NFL Network	U.S. specialty service
Speed	U.S. specialty service
Spike TV	U.S. specialty service
TLC	U.S. specialty service
TLC HD	U.S. specialty service
Turner Classic Movies	U.S. specialty service
Bite TV	Canadian category B specialty service
AUX TV	Canadian category B specialty service
BBC Kids	Canadian category B specialty service

⁷² Original Decision, *supra* note 1, at paras 420–424.

[138] We then separately sum the payments for the US specialty services, and for the Canadian specialty services. As the Board did in the Preliminary Calculations (see para. [28]), we use data from Dr. Chipty's Expert Report and the Undertaking Data.

[139] When summing payments for US specialty services, we do so in line with our decisions with respect to double-counting (see paragraph [32]) by omitting duplicate payments, and with respect to previously missing Telus-Fox News payment data (see paragraph [35]) by including it.

[140] When summing payments for Canadian specialty services, we have included updated payments for the Canadian specialty services contained in the Undertakings Data that were omitted in the Original Decision.

[141] Accordingly, total payments made by the four BDUs for US and Canadian specialty services in the proxy are \$19,427,422 and \$678,213, respectively.

[142] Just as in the Original Decision, to obtain an unadjusted per-subscriber price, we divide by the total number of subscribers to those four BDUs, being 8,078,000 subscribers. This results in an unadjusted per-subscriber price of \$2.405 for US specialty services, and \$0.084 for Canadian specialty services.

[143] For comparison, we note that were the Board to choose not to make corrections to US payments, the total for US specialty services would be \$20,796,783, resulting in an unadjusted per-subscriber price of \$2.58 for those services.

Isolating Cost of Programming

[144] In the Original Decision, the Board applied a 35% discount to the proxy price to isolate the cost of programming. The Board stated that this 35% consisted of "25 per cent to exclude the profit and 10 per cent to exclude input and overhead costs." The 10% input and overhead adjustment is not at issue here, and we use it in our calculation as well.

[145] We have concluded that it is appropriate to use 25% to exclude profit for US specialty services, but only 10% for Canadian specialty services (see paragraphs [131]-[132]). Combined with the adjustment for input and overhead costs, which are unchanged from the Original Decision, this results in a 35% adjustment for US specialty services, and a 20% adjustment for Canadian specialty services.

[146] This adjustment reduces the per-subscriber price to \$1.563 for US specialty services, and \$0.067 for Canadian specialty services.

Other Adjustments

[147] In the Original Decision, the Board made the following additional adjustments:

- market power of specialty services: 25% discount
- program substitutability: 8.25% discount.

[148] These adjustments were not set aside by the Federal Court of Appeal, and are therefore not at issue. We therefore use exactly the same figures in our calculation here, and in the same manner, as in the Board’s Original Decision.

[149] This results in a per subscriber price of \$1.076 for US specialty services and \$0.046 for the Canadian specialty services, for total price of \$1.12 per subscriber.

[150] Again, for comparison, we note that without corrections to the determination of US payments, the per-subscriber price for US specialty services would be \$1.153, resulting in a total price of \$1.20 per subscriber.

Conclusion

[151] Our calculations above are summarized in Table 2.

Table 2: Summary of Calculation of Per-Subscriber Price (\$)

	BDU Payments	Unadjusted price per-subscriber	Cost of programming	Market power of specialty services	Program substitutability
US Sub Total	19,427,422	2.405	1.563	1.172	1.076
CND Sub Total	678,213	0.084	0.067	0.050	0.046
Total	20,105,636	2.489	1.630	1.223	1.122

[152] In its Original Decision, the Board held that the effects of inflation and decrease in viewership would approximately cancel each other out during the tariff period (2014–2018). Therefore it calculated the same per-subscriber payment for each year of the tariff.⁷³

[153] We do so as well, and our calculated per-subscriber monthly payment is \$1.12.

⁷³ Original Decision, *supra* note 1, at para 452.

ii. Procedural Fairness Considerations

[154] The proposed royalty rates, as published in the *Canada Gazette*, are as follows:

Table 3: Proposed Royalty Rates (\$)

Year	2014	2015	2016	2017	2018
Proposed Royalty Rate	1.06	1.14	1.22	1.30	1.38

[155] To ensure procedural fairness, the Board’s Original Decision capped the rates it approved for 2014 and 2015 at those that were proposed by the Collectives, as published in the *Canada Gazette* on June 1, 2013.⁷⁴ The proposed royalty rates were \$1.06 for 2014 and \$1.14 for 2015.

[156] On judicial review, the FCA concluded that the Board did not err in doing so.⁷⁵

[157] We therefore also cap the royalty rates at the rates proposed by the Collectives. However, given that we have determined the calculated per-subscriber payment to be \$1.12 (see paragraph [153], above), this capping only has an effect for the year 2014.

[158] We fix the Main Rate, being the per-subscriber royalty-rate for BDUs with more than 6,000 subscribers, as follows:

Table 4: Main Rate for 2014-2018 (\$)

	2014	2015	2016	2017	2018
Per-Subscriber Royalty Rate	1.06	1.12	1.12	1.12	1.12

D. REDETERMINING SPECIAL RATES

[159] In the Original Decision, a number of royalty rates in the *Tariff for the Retransmission of Distant Television Signals, 2014-2018* were set for smaller BDUs and special markets (the “Special Rates”). Some of these were derived from the Main Rate.

⁷⁴ Original Decision, *supra* note 1, at paras 451–453; FCA Decision, *supra* note 4, at para 30.

⁷⁵ FCA Decision, *supra* note 4, at paras 85–95.

[160] The FCA’s decision did not disturb the Special Rates set in the Original Decision. However, given that some were derived from the Main Rate, and that the Main Rate has changed, we must redetermine those special rates as well.

i. Royalty Rates for Retransmitters with 6,000 subscribers or fewer

[161] We use the Main Rate to derive a table of royalties for retransmitters with 6,000 or fewer subscribers in the same manner as the Original Decision.

[162] In the Original Decision, each subsequent row is 5 or 6 cents greater than the row preceding it. We use the same increments as the Original Decision.

Table 5: Royalty Rates for Retransmitters by Number of Premises (\$)

Premises	Royalty Rate for 2014	Royalty Rate for 2015-2018
Up to 1,500	0.49	0.55
1,501 – 2,000	0.54	0.60
2,001–2,500	0.60	0.66
2,501–3,000	0.66	0.72
3,001–3,500	0.71	0.77
3,501–4,000	0.77	0.83
4,001–4,500	0.83	0.89
4,501–5,000	0.89	0.95
5,001–5,500	0.94	1.00
5,501–6,000	1.00	1.06
6,001 and over	1.06	1.12

ii. Francophone Markets

[163] As the Board noted in the Original Decision, the Collectives proposed maintaining the 50% discount for francophone markets.⁷⁶ The Board approved this discount.⁷⁷

[164] We do the same. While we maintain the 50% discount, it will be applied to a different royalty rate, resulting in a different amount owing than in the Original Decision.

⁷⁶ Original Decision, *supra* note 1, at para 34.

⁷⁷ Original Decision, *supra* note 1, at para 459.

iii. Unscrambled Low Power, Multipoint Distribution Systems, and Small Retransmission Systems

[165] For completeness, we note that the Original Decision set the royalty rate for Unscrambled Low Power & Multipoint Distribution Systems and for Small Retransmission Systems at \$100 per year.⁷⁸

[166] These rates are not affected by any portion of the Original Decision that was set aside by the FCA. As such, they are unchanged.

V. CONCLUSION

[167] On our reconsideration of the issues returned to us by the FCA, we conclude that:

- not making the necessary corrections would be contrary to the Board's mandate to fix fair and equitable royalty rates,
- we should use all the data correctly, departing from the calculations in the Original Decision,
- a 10% profit adjustment is appropriate for Canadian specialty services, and
- a 25% profit adjustment is appropriate for U.S. specialty services.

[168] Accordingly, we have redetermined the monthly, per-subscriber, royalty rates in the Tariff for the Retransmission of Distant Television Signals, 2014-2018 as follows:

⁷⁸ Original Tariff, *supra* note 1, ss 4 and 5.

Table 6: Approved Royalty Rates (\$)

Premises	Royalty Rate for 2014	Royalty Rate for 2015-2018
Up to 1,500	0.49	0.55
1,501–2,000	0.54	0.60
2,001–2,500	0.60	0.66
2,501–3,000	0.66	0.72
3,001–3,500	0.71	0.77
3,501–4,000	0.77	0.83
4,001–4,500	0.83	0.89
4,501–5,000	0.89	0.95
5,001–5,500	0.94	1.00
5,501–6,000	1.00	1.06
6,001 and over	1.06	1.12

[169] A 50% discount applies to BDUs in francophone markets.

[170] All other royalty rates and associated terms and conditions in the previously-approved *Tariff for the Retransmission of Distant Television Signals (2014–2018)* are unchanged.

[171] The date on which payments will be due shall be March 31, 2024

[172] The newly-approved tariff includes an updated table of interest rates.