

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

**Date** 2001-12-21

**Citation** File: Retransmission 2001-2003

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

**Members** Mr. Justice John H. Gomery  
Mr. Stephen J. Callary  
Ms. Sylvie Charron

## **Interim tariffs for the retransmission of distant radio and television signals during 2002**

### **Reasons for decision**

At the request of the Copyright Collective of Canada (for television) and the Society of Composers, Authors and Music Publishers of Canada (for radio), and subject to the changes outlined in the rest of this decision, the Board extends indefinitely the application of the interim tariffs that were set on December 8, 2000 for the year 2001. These tariffs will remain in force until the relevant final tariffs are certified unless they are modified at some point in time.

The wording of the tariff is amended as follows:

1. Some changes are made so as to account for the Exemption Order for Small Cable Undertakings recently adopted by the Canadian Radio-television and Telecommunications Commission (CRTC).

The definition of small retransmission system is replaced by the following:

"Small retransmission system means"

(A) a small retransmission system as defined 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)<sup>1</sup> 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.";

(B) any reference in the Regulations or in the tariff to a licensed area shall, where a cable retransmission system is exempt from licensing pursuant to the Exemption Order for Small Cable Undertakings (Appendix I, Public Notice CRTC 2001-121, December 7, 2001), be read effective as of

- i. the date of cancellation of the relevant licence in the case of a system which held a licence on December 7, 2001
- ii. the date the system begins operations in the case of all other systems

as a reference to the area in which premises lawfully served by the cable retransmission system are located;

Paragraph 16(f) is amended to read as follows:

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

"(f) a copy of any map of a licensed area in which the system is located, which is on file with the CRTC, or, if there is no such map, upon request, a map of its service area, unless such a filed map or other map has already been provided to the collective society."

2. The definition of LPTV is amended by replacing the words "May 1994" by "April 1997", so as to take into account a change in the relevant rules.
3. At the request of these collectives, the share of FWS is increased to 1.9 per cent while that of CRRA is reduced to 15.78 per cent.

The collectives shall produce, no later than January 11, 2002, a single text of draft tariffs with forms incorporating these changes as well as any others that may be required so as to fully reflect such changes.

The interim television tariff does not mention the Canadian Screenwriters Collection Society even though it has filed a proposed tariff for 2002 and 2003. The purpose of the interim tariff is to maintain the *status quo ante* and to prevent legal uncertainty. It has no impact on the validity of the claim made by CSCS.

A handwritten signature in black ink, reading "Claude Majeau". The signature is written in a cursive, flowing style.

Claude Majeau  
Secretary General