

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date 2003-03-21

Citation FILE: Retransmission 2001-2003

Regime Retransmission of Distant Radio and Television Signals
Copyright Act, section 73(1)

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

Statements of Royalties to be collected for the retransmission of distant radio and television signals, in Canada, in 2001, 2002 and 2003

Reasons for decision

On March 31, 2000, the Border Broadcasters' Collective (BBC), the Canadian Broadcasters Rights Agency (CBRA), the Canadian Retransmission Collective (CRC), the Canadian Retransmission Right Association (CRRA), the Copyright Collective of Canada (CCC), the Major League Baseball Collective of Canada (MLB), FWS Joint Sports Claimants (FWS) and the Society of Composers, Authors and Music Publishers of Canada (SOCAN) filed joint statements of proposed royalties for the retransmission of distant radio and television signals for the years 2001 to 2003. These statements were published in the *Canada Gazette* on July 1, 2000.

Objections were received from 2000051 Ontario Inc. (JumpTV) and Bell ExpressVu. JumpTV withdrew its objection on October 10, 2001. The purpose of Bell ExpressVu's objection was solely to seek a Francophone market discount for direct-to-home satellite retransmitters in the event that the *Local Signal and Distant Signal Regulations* (SOR/89-254) were to be amended during the relevant period. There has been no indication to date that such an amendment may be forthcoming. In all other respects, Canadian retransmitters reached an agreement with the collectives which was tabled with the Board on March 26, 2001.

A ninth society, the Canadian Screenwriters Collection Society, filed a statement for distant television signals for 2002 and 2003 but withdrew it on July 8, 2002, upon reaching an agreement with CRC, CBRA and CRRA for the representation of the Society's works.

As no objection or issue remains in these proceedings, the Board hereby certifies the final distant

radio and television retransmission tariffs for the years 2001 to 2003.

The wording of the tariffs is similar to that of the *Television Retransmission Tariff 1998-2000* and the *Radio Retransmission Tariff 1998-2000*, in all but three respects, for reasons explained in the Board's decision of December 21, 2001 for issuing interim tariffs. Some changes are made so as to account for the CRTC Exemption Order for Small Cable Undertakings. The definition of Low Power Television Station (LPTV) is amended to take into account a change in the relevant rules. At the request of the collective societies, the royalty shares of two of them were adjusted.

On March 13, 2003, the Canadian Cable Television Association (CCTA) requested that the Board postpone the certification of the tariffs pending the adoption by the CRTC of regulatory amendments allowing it to implement a regional system of licensing for broadcast distribution undertakings (BDUs). Other retransmitters concurred with CCTA, while the collectives asked that the tariffs be certified as soon as possible.

Under the CRTC's proposed regional system of licensing, a person would be issued a single licence for all BDUs it owns within a region. The substantive obligations of each BDU within each licensed area would remain the same.

The Board sees no reason to delay the certification of the tariffs any further. Royalties are calculated using the number of premises served in each licensed area. Nothing in the CRTC's proposed system appears to have an impact on this. Consequently, CCTA's apprehension that collectives may attempt to assess royalties based on the number of premises served by a single owner in all its licensed areas within a region seems unfounded.

The Board clearly is of the view at this time that the CRTC's regional approach to licensing should have no effect whatsoever on a retransmitter's financial obligations under the tariffs. Were CCTA's apprehension to materialize, this may well constitute a material change in circumstances which justifies reopening the tariffs.

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

Claude Majeau
Secretary General