

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date 2018-12-18

Citation CB-CDA 2018-227

Regime Royalties in Particular Cases
Copyright Act, section 73(1)

Members The Honourable Robert A. Blair
Mr. Claude Majeau
Mr. J. Nelson Landry

Tariff for the retransmission of distant television signals, 2014-2018

Reasons for decision

[1] The Collectives and the Objectors in this proceeding have already made their submissions on the quantum of retransmission royalties to be paid for 2014-2018. However, the issue of allocation of those royalties amongst the Collectives was left to be separately studied, negotiated and, if required, litigated before the Board. The current schedule would lead to a hearing on the issue of royalty allocation in June 2019.

[2] On December 12, 2018, the Board received a letter from the Collectives to this proceeding, requesting that the Board render a decision with respect to quantum as soon as possible. Counsel for the Objectors advised the Collectives that the Objectors do not object to the Collectives' request.

[3] The Collectives put the following reasons forward in support for their request:

- The Collectives believe that receiving the Board's quantum decision will assist them in attempting to negotiate a resolution of the remaining allocation issues without the need to proceed with litigation;
- Knowing the quantum for 2014-2018 will allow the Collectives and the Broadcasting Distribution Undertakings (BDUs) to address the need for, and manner of, retroactive payments/reimbursements between the BDUs and the Collectives;
- Knowing the quantum for 2014-2018 will, to an extent, alleviate the burden on the BDUs and the Collectives of having to maintain significant monetary reserves, and/or hold back distribution of royalties to rights holders, in anticipation of the Board's decision in

respect of quantum;

- Receiving the Board's quantum decision for 2014-2018 will allow the Parties to consider what revisions, if any, may be required to align the quantum requested in the 2019-2023 Interim Tariff with the Board's 2014-2018 quantum decision; and
- Once the allocation issues are resolved or decided, the Collectives would take care of re-allocating any payments made by the BDUs without requiring them to take any additional steps. As such, issuance of a quantum decision by the Board before the resolution of allocation issues will not negatively affect the BDUs.

[4] While it is unusual for the Board to issue a decision with respect to quantum alone in the course of a tariff proceeding, and to do so without reasons at the same time, we agree to proceed in this fashion in the circumstances of this proceeding, given the urgent nature of the request. Full reasons (except with respect to the allocation amongst collectives) will follow.

[5] We note that this decision does not constitute the certification of a tariff as approved pursuant to section 73 of the *Copyright Act*. This will be done in due course, following an agreement or decision with respect to allocation. The Board has determined the royalty rates it will set in this proceeding, as per the following Table.

Table – Monthly Rate for each premises receiving one or more distant signal (dollars), 2014-2018 /

Tableau – Taux mensuel pour chaque local recevant un ou plusieurs signaux éloignés (dollars), 2014-2018

Number of premises / Nombre de locaux	2014	2015	2016-2018
Up to 1,500 / jusqu'à 1500	0.49	0.57	0.60
1,501 - 2,000	0.54	0.62	0.65
2,001 - 2,500	0.60	0.68	0.71
2,501 - 3,000	0.66	0.74	0.77
3,001 - 3,500	0.71	0.79	0.82
3,501 - 4,000	0.77	0.85	0.88
4,001 - 4,500	0.83	0.91	0.94
4,501 - 5,000	0.89	0.97	1.00
5,001 - 5,500	0.94	1.02	1.05
5,501 - 6,000	1.00	1.08	1.11
6,000 +	1.06	1.14	1.17



Gilles McDougall
Secretary General