

Copyright Board
Canada



Commission du droit d'auteur
Canada

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Citation *Interim Television Retransmission Tariff (2024-2028)*,
2025 CB 22

Proposed Tariff Tariff for the Retransmission of Distant Television Signals
(2024-2028)

Member Drew Olsen

Application to Modify *Interim Television Retransmission Tariff (2024-2028)*

Reasons for Decision

I. Overview

[1] On December 12, 2025, the collective societies (the “Collectives”)¹ that filed the proposed *Tariff for the Retransmission of Distant Television Signals (2024-2028)* applied to the Copyright Board (the “Board”) to amend the *Interim Television Retransmission Tariff (2024-2028)*² (the “Interim Tariff”). They request that the Interim Tariff be amended to align the royalty rates for 2026-2028 with the most current royalty rates determined by the Board, these being the royalty rates fixed for 2018 in the *Television Retransmission Tariff (2014-2018)*, dated June 21, 2025³, and subsequently corrected in an erratum issued September 6, 2025⁴ (the “2025 Decision”).

[2] The application is denied for the reasons that follow.

¹ These collectives are: Border Broadcasters, Inc.; Canadian Broadcasters Rights Agency; Canadian Retransmission Collective; Canadian Retransmission Right Association; Copyright Collective of Canada; Direct Response Television Collective Inc.; FWS Joint Sports Claimants Inc.; Major League Baseball Collective of Canada, Inc.; and Society of Composers, Authors and Music Publishers of Canada.

² *Interim Television Retransmission Tariffs (2019-2023 and 2024-2028)*, 2024 CB 3 (May 3, 2024) [Interim Tariff 2024].

³ *Television Retransmission Tariff (2014-2018)*, 2025 CB 3-T (June 21, 2025).

⁴ *Television Retransmission Tariff (2014-2018)*, 2025 CB 3-T-Erratum (September 6, 2025).

II. Background

[3] The Interim Tariff is currently based on the *Tariff for the Retransmission of Distant Television Signals (2014-2018)*, as redetermined by the Board on January 12, 2024, following judicial review⁵ (the “2024 Decision”).

[4] The 2024 Decision corrected errors related to the calculation of the proxy used in the 2019 decision to set the *Tariff for the Retransmission of Distant Television Signals, 2014-2018*⁶ (the “2019 Decision”). Namely, in the course of the redetermination, the Board concluded that the payments for specialty services were double-counted. Since the payments for specialty services served as a proxy for the tariff rates, ignoring the duplicative entries led to redetermined rates that were lower compared to those in the 2019 Decision.

[5] The 2024 Decision was itself subject to judicial review. In its judgement, the Federal Court of Appeal directed the Board to issue a new tariff with the rates contemplated in paragraphs 47 and 48 of its Reasons for Judgment.⁷ This resulted in a decision⁸ (the “2025 Decision”), which led to redetermined rates that are 23% higher than the rates in 2024 Decision.

III. Parties’ Position

[6] The Collectives state that amending the interim royalty rates as requested will promote fairness and ensure the Collectives are compensated based on the most current approved fair and equitable royalty rates and not based on outdated royalty rates contained in the existing Interim Tariff. They argue that such an outcome would be consistent with the arguments submitted by the BDUs⁹ in their February 23, 2024, request to decrease the interim royalty rates following the 2024 Decision, which were then adopted by the Board in its May 3, 2024, decision on the Interim Tariff.

[7] The BDUs response is that once set, interim tariffs are very rarely updated—and mostly on consent of the parties, which is not the case here. Furthermore, the BDUs state that the Collectives’ request would give the BDUs less than a month to react to 23% increases in royalty rates after many BDUs have concluded their budgeting

⁵ *Tariff for the Retransmission of Distant Television Signals, 2014-2018* [Redetermination], 2024 CB 1 (January 12, 2024).

⁶ *Statement of Royalties to be collected for the retransmission of distant television signals, in Canada, for the years 2014 to 2018*, CB-CDA 2019-056 (August 2, 2019).

⁷ *Copyright Collective of Canada v. Bell Canada*, 2025 FCA 92 (May 8, 2025).

⁸ *Tariff for the Retransmission of Distant Television Signals, 2014-2018* [Redetermination], 2025 CB 3 (June 20, 2025).

⁹ Being the following broadcasting distribution undertakings: Bell Canada, Cogeco Communications, Quebecor Media, Rogers Communications, Canadian Communications Systems Alliance Inc., and TELUS Communications.

processes for 2026. The BDUs argue that the balance of convenience therefore favours not increasing the rates. Finally, the BDUs submit that it would be patently unfair for the Board to increase the interim rates to levels significantly above what the Board has found to be fair and equitable.

IV. Analysis

[8] For the following reasons, I do not grant the application.

[9] First, in my view, the Board's decisions on interim tariffs imply that interim tariffs should provide certainty;¹⁰ this allows parties to plan their finances accordingly. For example, in the interim licencing decision in *CBC v SODRAC*,¹¹ the Board stated that “[a]n interim decision serves chiefly to avoid the negative consequences caused by the length of the proceedings.”¹²

[10] The Board further stated that “the best way to achieve the objectives of an interim decision is to maintain the status quo.”¹³ This approach was not disturbed on judicial review,¹⁴ or subsequent appeal¹⁵. While not addressed in that case, I am of the view that where there is already an interim tariff for a given period, that interim tariff is the status quo.

[11] An application to depart from this status quo must show that it is appropriate to do so on a balance of convenience.¹⁶ However, a change in the last-approved tariff is not sufficient. As the Board noted in the decision on the Interim Tariff: the Board does not automatically update previously set interim tariffs.¹⁷ I agree with this approach.

[12] Second, the Board has discretion when determining what is the appropriate basis for an interim tariff.¹⁸ I am not convinced that the 2025 Decision has the better rate.

[13] While on judicial review of the 2024 Decision the Board was found to not have the power to correct those errors, and therefore could not amend the approved rates for the 2014-2018 period, the Board retains the ability to use this information to set interim rates for 2024-2028—a proceeding entirely distinct from the proceeding for 2014-2018.

¹⁰ *Canadian Broadcasting Corp. v. SODRAC 2003 Inc.*, 2015 SCC 57, [2015] 3 S.C.R. 615 (November 26, 2015), para 99 [CBC v. SODRAC 2015].

¹¹ *Society for Reproduction Rights of Authors, Composers and Publishers in Canada v. Canadian Broadcasting Corporation*, 70.2-2012-01 (January 16, 2013), para 17 [SODRAC v. CBC 2013].

¹² *Ibid.* paras 17 and 18.

¹³ *Ibid.* para 18.

¹⁴ *Canadian Broadcasting Corporation/Société Radio-Canada v. SODRAC 2003 Inc.*, 2014 FCA 84 (March 31, 2014).

¹⁵ *CBC v. SODRAC 2015*, *supra* note 10.

¹⁶ *SODRAC v. CBC 2013*, *supra* note 11, para 18.

¹⁷ *Interim Tariff 2024*, *supra* note 2, para 20.

¹⁸ *CBC v. SODRAC 2015*, *supra* note 10, paras 98-100.

[14] For the purpose of an interim tariff, I prefer the 2024 Decision over the 2025 Decision as it incorporated the best available information available to the Board at that time. As opposed to the 2025 Decision, the 2024 Decision corrected the data errors identified by the Board.

[15] Finally, I accept the BDUs submissions that a change at this time would cause difficulties with budgeting.

V. Conclusion

[16] For the reasons above, I am not convinced that, on a balance of convenience, it is appropriate to depart from the status quo in this case.

[17] As such, the application to amend the *Interim Television Retransmission Tariff (2024-2028)* is denied.