

**Copyright Board**Filed by / Déposé par: Border-DRTC-CBRA-FWS-CRC-
MLBCC-CRRA-SOCAN-CCCDate: 2022-11-11**Notice of Grounds for Proposed Tariff**Tariff Title: *Tariff for the Retransmission of Distant Television Signals, 2024-2028* (the "Proposed Tariff")

Date: November 11, 2022

1. Description and Examples of Activities Covered by the Proposed Tariff

The Proposed Tariff applies to the retransmission of one or more distant television signals that carry any work owned or controlled by any of the collective societies who have filed the Proposed Tariff.

2. Description of Users / Groups of Users Covered by the Proposed Tariff

Users covered by the Proposed Tariff are retransmitters within the meaning of s. 31 of the *Copyright Act*, R.S.C., 1985, c. C-42, and include persons who operate one or more of: a cable retransmission system (which includes without limitation a master antenna system and an internet protocol television (IPTV) retransmission system), a low power television station or very low power television station (LPTV), a multichannel multipoint distribution system (MDS), or a direct-to-home satellite system (DTH). In the remainder of this Notice of Grounds, these persons shall be referred to as "Users".

3. Explanation of How Royalty Rates are Determined

The proposed royalties payable by Users who operate "small retransmission systems", as defined in the Proposed Tariff, as well as Users who operate unscrambled LPTVs and unscrambled MDSs, are \$200 a year.

The proposed royalties payable by other Users, based on the number of premises served, are as follows:

Number premises	of	Monthly rate for each premises receiving one or more distant signals				
		2024	2025	2026	2027	2028
up to 1,500		\$5.03	\$5.33	\$5.64	\$5.97	\$6.33
1,501-2,000		\$5.54	\$5.87	\$6.21	\$6.58	\$6.97
2,001 - 2,500		\$6.04	\$6.39	\$6.77	\$7.17	\$7.59
2,501 - 3,000		\$6.54	\$6.93	\$7.34	\$7.77	\$8.23
3,001 - 3,500		\$7.04	\$7.46	\$7.90	\$8.36	\$8.86
3,501 - 4,000		\$7.55	\$8.00	\$8.47	\$8.97	\$9.50
4,001 - 4,500		\$8.05	\$8.52	\$9.03	\$9.56	\$10.12
4,501 - 5,000		\$8.56	\$9.06	\$9.60	\$10.16	\$10.76
5,001 - 5,500		\$9.05	\$9.59	\$10.15	\$10.75	\$11.39
5,501 - 6,000		\$9.56	\$10.13	\$10.72	\$11.36	\$12.03
6,001 and over		\$10.06	\$10.65	\$11.28	\$11.95	\$12.65

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Royalty rates payable by these Users may be subject to various discounts as defined in the Proposed Tariff. Such discounts depend on a number of different factors including, among others, the type of premises served and whether the retransmission system's service area serves a francophone market.

The proposed royalty rates set out above for the year 2024 are informed by the 2014-2018 Tariff (being the last retransmission tariff to be approved by the Board), the accompanying Decisions, and the factual information and expert analysis used in establishing that tariff. In addition, it is anticipated that as part of the Proposed Tariff proceeding, Users will produce information and documents that will assist in establishing the value and monetization of distant signals prior to and during the tariff period (2024-2028). The anticipated information and documents are highly confidential and not otherwise available to the collectives. As in prior tariff proceedings, it is expected that this relevant information, and expert analysis of the same, will enable the collective societies to provide a detailed direct-market and proxy valuation analysis to permit the Copyright Board to set an equitable royalty rate for the use of distant signals during the tariff period.

The proposed royalty rates set out above for the years 2025-2028 are based on an anticipated inflationary increase to the 2024 royalty rate.

The collective societies reserve the right to adopt and advance additional or alternative valuation methodologies and inflationary rates in the course of the proceedings relating to the Proposed Tariff.

4. Explanation of Use of Information Collected Pursuant to the Proposed Tariff

The Proposed Tariff requires Users covered by the Proposed Tariff to provide each of the collective societies who have filed the Proposed Tariff with information in respect of each retransmission system the User operates, including: the name of the retransmitter, a precise description of the retransmission system service area, the number of each type of premises served, the number of premises of each type receiving at least one signal as distant and, information about each service or signal distributed.

This information, which would otherwise be unavailable to the collective societies, is intended to allow the collective societies to assess the accuracy of the royalties payable and paid by Users.

5. Explanation of Changes from Previously Approved Tariff

There are a number of changes to the Proposed Tariff from the last previously approved tariff (the 2014-2018 Retransmission Tariff). Certain of these changes reflect earlier incremental changes proposed by the collective societies in the pending 2019-2023 Retransmission Tariff. While the proposed amendments provide refinements to previously approved retransmission tariffs, the overall form and structure of the Proposed Tariff remains consistent with tariffs the Copyright Board has certified since the inception of the tariff for the retransmission of distant signals in 1990. Explanations of changes included in the Proposed Tariff are briefly described below:

- Changes to the royalty rates payable by Users who operate "small retransmission systems" and Users who operate unscrambled LPTVs and unscrambled MDSs from \$100 per year to \$200 per year.
- Changes to the royalty rates payable by Users who operate other retransmission systems, as set out in section (3) above.
- Changes to the general administration provisions regarding the process and timing for

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adjustments made by Users to correct underpayments and overpayments in the amount of royalties owed and paid. More particularly, the changes will require that:

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- Users provide to the collective societies (at the same time as making any adjustment to correct an underpayment) information and documentary support to permit assessment of the adjustments;
 - Users may only make deductions to correct an overpayment within two years of the original due date of the payment requiring an adjustment; and
 - At least 6 months prior to making any deductions to correct an alleged overpayment, Users must provide to the collective societies information and documentary support to permit assessment of the deductions.
- Amendments to the various Forms in order to provide a template for delivery of information required pursuant to the Proposed Tariff, which Forms are Appendix B to the Proposed Tariff.

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