



## Broadcasting Decision CRTC 2018-311

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Reference: Part 1 licence renewal application posted on 27 November 2017

Ottawa, 23 August 2018

**Moviola: Short Film Channel Inc.**  
Across Canada

*Public record for this application: 2017-0808-3*

### Rewind – Licence renewal

*The Commission **renews** the broadcasting licence for the national, English-language discretionary service Rewind from 1 September 2018 to 31 August 2023.*

#### Application

1. Moviola: Short Film Channel Inc. filed an application to renew the broadcasting licence for the national, English-language specialty Category B service Rewind (formerly Moviola). The current licence expires 31 August 2018.
2. The licensee confirmed that it would adhere to the standard requirements for discretionary services set out in Appendix 2 of Broadcasting Regulatory Policy 2016-436.
3. In addition, the licensee proposed to devote 10% of the previous year's revenues of the service to Canadian programming expenditures (CPE) in each broadcast year.

#### Interventions

4. The Commission received a joint intervention by the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) and the Directors Guild of Canada (DGC), as well as comments by the Canadian Media Producers Association (CMPA), the Shaw Rocket Fund and the Writers Guild of Canada (WGC), as well as a joint intervention by Rogers Media Inc., Corus Entertainment Inc. and Bell Media Inc. (the Parties). The applicant did not reply.
5. ACTRA and the DGC supported the renewal of the licence on the condition that the Commission impose a CPE requirement of 13.5% of previous year's gross revenues for the service, which corresponds to its CPE in the 2014-2015 broadcast year.
6. The CMPA supported the renewal of the service's licence on condition that the Commission impose a 12% CPE requirement, based on historical levels. The WGC also stressed the need to base the service's CPE expenditure requirement on its historical spending.

7. For its part, the Shaw Rocket Fund stressed the continued need to support original Canadian children's programming.
8. Finally, although the licensee did not request an exemption to the standard requirements for discretionary services, which include specific requirements relating to described video, the Parties used the opportunity to argue that the described video requirements imposed by the Commission on independently owned undertakings are onerous.

### **Commission's analysis and decisions**

9. In Broadcasting Regulatory Policy 2015-86 (the Policy), the Commission announced that CPE requirements would be implemented for all English- and third-language discretionary services with over 200,000 subscribers based on historical expenditure levels.
10. The Commission considers that the applicant has not demonstrated that the imposition of a 10% CPE requirement for its service is adequate. Specifically, in its application, the applicant submitted that based on its calculations it had devoted on average approximately 12% of its previous year's gross revenues to CPE over the last three broadcast years. However, in the annual returns filed with the Commission, the applicant reported CPE ranging from 18% to 26% of previous year's gross revenues for the 2012-2013 through 2016-2017 broadcast years, which represents an average of 21.5%. Given the lack of supporting documentation provided by the licensee to justify the discrepancy, the Commission is of the view that the data filed by the applicant in its annual returns provides the most accurate information on which to base a determination as to an appropriate CPE level.<sup>1</sup>
11. In light of the above, the Commission considers that a 19% CPE requirement is appropriate. This level of expenditures will ensure an adequate contribution by the licensee to the creation and presentation of Canadian programming, consistent with the Policy and sections 3(1)(d), (e) and (f) of the *Broadcasting Act* (the Act). Accordingly, in the appendix to this decision, the Commission has set out a **condition of licence** to that effect.
12. The Commission considers it appropriate to adopt an incentive to encourage the reflection of Indigenous peoples within the Canadian broadcasting system. Specifically, the licensee will receive a 50% credit towards its CPE requirements for expenditures on Canadian programming produced by Indigenous producers, up to a maximum (expenses plus credit) of 10% of the licensee's overall CPE requirement when combined with the credit discussed below on official language minority community (OLMC) reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit.

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<sup>1</sup> Given that the information provided in the annual returns is standardized and includes a greater breakdown of CPE, the Commission generally relies on annual return data unless compelling evidence is provided by the licensee that would justify an exception to this practice.

13. The Commission is also of the view that a similar credit could encourage greater onscreen reflection of OLMCs in the Canadian broadcasting system. Consequently, the licensee will receive a 25% credit against its CPE requirements for expenditures on Canadian programming produced by OLMC producers, up to a maximum (expenses plus credit) of 10% of the licensee's overall CPE requirement when combined with the credit discussed in the preceding section on Indigenous reflection. Only programming costs counting towards CPE as defined in Public Notice 1993-93 will be considered eligible for the credit. Further, the OLMC producer must be an independent producer as defined by the Commission and (i) if in the province of Quebec, the original language of the production must be English or (ii) if outside of the province of Quebec, the original language of the production must be French.
14. Accordingly, the Commission has set out **conditions of licence** to that effect in the appendix to this decision.

### **Conclusion**

15. In light of all the above, the Commission **renews** the broadcasting licence for the English-language discretionary service Rewind<sup>2</sup> from 1 September 2018 to 31 August 2023. The terms and **conditions of licence** are set out in the appendix to this decision.

### **Reminder**

16. Section 8 of the *Discretionary Services Regulations* requires that except as otherwise provided under a condition of its licence, a licensee shall provide to the Commission, within 30 days after the end of each month, the program log or record of its programming for the month.
17. The Commission reminds the licensee that the program logs must be accurate and must be kept in a form acceptable to the Commission.

Secretary General

### **Related documents**

- *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016
- *Let's Talk TV: The way forward – Creating compelling and diverse Canadian programming*, Broadcasting Regulatory Policy CRTC 2015-86, 12 March 2015

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<sup>2</sup> In Broadcasting Regulatory Policy 2015-86, the Commission announced that it would consolidate television programming service licences into three broad categories. According to this simplified approach, specialty Category B services are now designated as discretionary services.

- *The reporting of Canadian programming expenditures*, Public Notice CRTC 1993-93, 22 June 1993

*This decision is to be appended to the licence.*

## Appendix to Broadcasting Decision CRTC 2018-311

### Terms, conditions of licence, expectations and encouragements for the English-language discretionary service Rewind

#### Terms

The licence will take effect 1 September 2018 and expire 31 August 2023.

#### Conditions of licence

1. The licensee shall adhere to the standard conditions of licence for discretionary services set out in Appendix 2 of *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016, as well as to the conditions set out in the broadcasting licence for the undertaking.
2. In each broadcast year, the licensee shall devote to the acquisition of or investment in Canadian programming at least 19% of the previous year's gross revenues of the undertaking.
3. Subject to condition 4, the licensee may claim, in addition to its expenditures on Canadian programming:
  - a. a 50% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an Indigenous producer and claimed as Canadian programming expenditures during that broadcast year;
  - b. a 25% credit against its Canadian programming expenditure requirements for expenditures made on Canadian programming produced by an official language minority community producer and claimed as Canadian programming expenditures during that broadcast year. The licensee may claim the credit if:
    - i. the programming is produced in the province of Quebec and the original language of production is English; or
    - ii. the programming is produced outside the province of Quebec and the original language of production is French.
4. The licensee may claim the credits calculated in accordance with condition 3 until the expenditures made on Canadian programming produced by Indigenous producers and by official language minority community producers, including credits, reach a combined maximum of 10% of the Canadian programming expenditure requirement for the undertaking.
5. In regard to expenditures on Canadian programming:

- (a) In each broadcast year of the licence term, excluding the final year, the licensee may expend an amount on Canadian programming that is up to 5% less than the minimum required expenditure for that year calculated in accordance with condition of licence 2; in such case the licensee shall expend in the next broadcast year of the licence term, in addition to the minimum required expenditure for that year, the full amount of the previous year's under-expenditure.
- (b) In each broadcast year of the licence term, excluding the final year, where the licensee expends an amount for that year on Canadian programming that is greater than the minimum required expenditure, the licensee may deduct that amount from the minimum required expenditure in one or more of the remaining years of the licence term.
- (c) Notwithstanding paragraphs (a) and (b) above, during the licence term, the licensee shall expend on Canadian programming, at a minimum, the total of the minimum required expenditures calculated in accordance with condition of licence 2.
6. In the two years following the end of the previous licence term, the licensee shall report and respond to any Commission enquiries relating to the expenditures on Canadian programming made by the licensee for that term.
7. The licensee is responsible for any failure to comply with the requirements relating to expenditures on Canadian programming that occurred during the previous licence term.

### **Definitions**

For purposes of these conditions:

“Indigenous producer” means an individual who self-identifies as Indigenous, which includes First Nations, Métis or Inuit, and is a Canadian citizen or resides in Canada, or an independent production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and are Canadian citizens or reside in Canada. In regard to the definition of “independent production company,” “Canadian” includes a person who self-identifies as Indigenous and resides in Canada, whereas “Canadian company” includes a production company in which at least 51% of the controlling interest is held by one or more individuals who self-identify as Indigenous and reside in Canada.

“Official language minority community producer” means a company that meets the definition of “independent production company” and that:

- a. if operating in the province of Quebec, produces original English-language programming, or

- b. if operating outside of the province of Quebec, produces original French-language programming.

### **Expectations**

The standard expectations applicable to this licensee are set out in Appendix 2 of *Standard requirements for television stations, discretionary services and on demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.

### **Encouragements**

The standard encouragements applicable to this licensee are set out in Appendix 2 of *Standard requirements for television stations, discretionary services and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016.