



## Broadcasting Decision CRTC 2023-338

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Reference: Part 1 licence renewal application posted on 20 March 2023

Ottawa, 13 October 2023

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

*Public record: 2022-0769-6*

### Rewind – Licence renewal

#### Summary

The Commission **renews** the broadcasting licence for the national, English-language discretionary service Rewind from 1 January 2024 to 31 August 2028.

In addition, the Commission **denies** the licensee's request to decrease its Canadian programming expenditure.

#### Application

1. The Commission has the authority, pursuant to subsections 9(1), 9.1(1) and 11.1(2) of the *Broadcasting Act*, to issue and renew licences and to make orders imposing conditions on the carrying on of a broadcasting undertaking that it considers appropriate for the implementation of the broadcasting policy set out in subsection 3(1) of the *Broadcasting Act*, and to make orders respecting expenditures.
2. Moviola: Short Film Channel Inc. filed an application to renew the broadcasting licence for the national, English-language discretionary service Rewind, which expires 31 December 2023.<sup>1</sup> The Commission did not receive any interventions in regard to this application.
3. Additionally, the licensee proposed decreasing its Canadian programming expenditure (CPE) requirement from 19% to 10%.

#### Issue

4. After examining the record for this application in light of applicable regulations and policies, the Commission considers that it must examine the following issue:

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<sup>1</sup> The licence was administratively renewed from 1 September 2023 to 31 December 2023 as a result of Broadcasting Decision 2023-299.

- the licensee's request to decrease its CPE to 10%.

### **Canadian programming expenditures**

5. In its application, the licensee requested that its CPE requirement decrease from 19% to 10%.
6. The licensee stated that its CPE spending generally goes to low demand, low supply, shelf library and filler programming as well as production. It argues that its requirement to expend 19% of its expenditures on CPE results in it paying more for this programming than the market demands.
7. The licensee also submitted that it expects a recent decrease in its annual revenues to continue through its next licence term. Therefore, it argued that meeting a 19% requirement will be difficult.
8. The Commission notes that it denied the licensee's request for a decrease to 10% CPE during its last licence renewal, since the annual return filings for that previous licence term demonstrated that the licensee had been able to meet the 19% requirement.
9. In its current licence application, the licensee argued that the Commission had erred in its interpretation of the licensee's past annual returns, and that the licensee had not, in fact, been able to meet the 19% requirement during that previous licence term.
10. However, the subject at issue in this application is the licensee's conduct during this current licence term. A review of the licensee's annual returns during this licence term reveals a level of CPE spending that reinforces its ability to maintain a 19% requirement.
11. Further, following an analysis of some of the service's programming, the Commission notes that, generally, a significant portion of Canadian films broadcast were short films, while the vast majority of feature films broadcast were non-Canadian. Therefore, even a moderate increase in the amount of Canadian feature films broadcast could help the licensee meet its CPE requirement of 19%.
12. In light of the above, the Commission considers that the licensee has not sufficiently demonstrated its inability to maintain a 19% requirement for CPE and **denies** the licensee's request to decrease it to 10%.

### **Conclusion**

13. In light of all of the above, the Commission **renews** the broadcasting licence for the national, English-language discretionary service Rewind from 1 January 2024 to 31 August 2028.
14. In addition, the Commission **denies** the licensee's request to decrease its Canadian programming expenditure requirement.

15. Pursuant to subsections 49(1) and 50(2) of the *Online Streaming Act*, the conditions of licence that existed prior to the date of royal assent of that Act are deemed to be conditions imposed under an order made pursuant to section 9.1 of the new *Broadcasting Act*, or subsection 11.1(2) in the case of expenditure requirements. As such, the conditions of licence for this licensee became conditions of service and continue to apply to the licensee. For ease of reference, the **conditions of service** for this licensee are set out in the appendix to this decision.<sup>2</sup> Further, the formal broadcasting licence document issued to a licensee may set out additional requirements for the undertaking, relating to, for example, technical parameters or prohibitions on transfer. The licensee shall also adhere to any such requirements set out in the broadcasting licence for the undertaking.

Secretary General

### Related documents

- *Standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services and exemption order for exempt discretionary services – Modifications to the advertising time limit requirement*, Broadcasting Regulatory Policy CRTC 2023-306 and Broadcasting Order CRTC 2023-307, 5 September 2023
- *Various conventional and educational television programming undertakings, community programming services, discretionary services, on-demand services and terrestrial broadcasting distribution undertakings – Administrative renewals*, Broadcasting Decision CRTC 2023-299, 29 August 2023
- *Standard requirements for television stations, discretionary services, and on-demand services*, Broadcasting Regulatory Policy CRTC 2016-436, 2 November 2016

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

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<sup>2</sup> The standard conditions of service to which discretionary services such as Rewind are subject were formerly set out in Appendix 2 of Broadcasting Regulatory Policy 2016-436. These were updated and are now set out in Appendix 1 to Broadcasting Regulatory Policy 2023-306.

## Appendix to Broadcasting Decision CRTC 2023-338

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

#### Terms

The licence will expire 31 August 2028.

#### Conditions of service

1. The licensee shall adhere to the conditions of service set out in Appendix 1 to *Standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services and exemption order for exempt discretionary services – Modifications to the advertising time limit requirement*, Broadcasting Regulatory Policy CRTC 2023-306 and Broadcasting Order CRTC 2023-307, 5 September 2023. Further, the licensee shall adhere to the requirements set out in the broadcasting licence for the undertaking.
2. The licensee shall adhere to all applicable requirements set out in the *Discretionary Services Regulations*, that were made under paragraph 10(1)(a) or under paragraph 10(1)(i) of the old *Broadcasting Act*.<sup>3</sup>
3. 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.
4. Subject to condition 5, 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:
    - o the programming is produced in the province of Quebec and the original language of production is English; or

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<sup>3</sup> Pursuant to subsection 49(2) of the *Online Streaming Act*, which made a certain number of amendments to the *Broadcasting Act* when it came into force on 27 April 2023, any regulation made under paragraphs 10(1)(a) or 10(1)(i) of the old *Broadcasting Act* is deemed to be an order made under section 9.1 of the new *Broadcasting Act*.

- the programming is produced outside the province of Quebec and the original language of production is French.
5. The licensee may claim the credits calculated in accordance with condition 4 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.
  6. 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 service 3; 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 service 3.
  7. 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.
  8. 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 the purposes of these conditions of service:

**Indigenous producer** means an individual who self-identifies as Indigenous, which includes First Nations, Métis and 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.

**Official language minority community (OLMC) producer** means a company that meets the definition of “independent production company” and that, if operating in the province of Quebec, produces original English-language programming, or if operating outside of the province of Quebec, produces original French-language programming.

***Clarification for OLMC producer***

To be considered an OLMC producer in Canada, a production company must:

- if it produces original programming in English, have its head office in Quebec and be owned and operated by a resident of Quebec;
- if it produces original programming in French, have its head office outside Quebec and be owned and operated by a resident outside of Quebec.

**Expectations**

***Standard expectations***

The standard expectations applicable to this licensee are set out in Appendix 1 to *Standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services and exemption order for exempt discretionary services – Modifications to the advertising time limit requirement*, Broadcasting Regulatory Policy CRTC 2023-306 and Broadcasting Order CRTC 2023-307, 5 September 2023.

***Cultural diversity***

The Commission expects the licensee to reflect the cultural diversity of Canada in its programming and employment practices.

**Encouragements**

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard conditions of service for licensed discretionary services, national news discretionary services and mainstream sports discretionary services and exemption order for exempt discretionary services – Modifications to the advertising time limit requirement*, Broadcasting Regulatory Policy CRTC 2023-306 and Broadcasting Order CRTC 2023-307, 5 September 2023.