



Broadcasting Decision CRTC 2014-421

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Route reference: 2014-99

Ottawa, 8 August 2014

Moviola: Short Film Channel Inc.
1490525 Ontario Inc.
Across Canada

2190015 Ontario Inc.
Hamilton, Ontario

*Applications 2012-0858-8, 2012-0859-6 and 2012-0860-4, received 18 July 2012, and 2012-0933-8 and 2012-0941-1, received 2 August 2012
Public hearing in the National Capital Region
28 April 2014*

Movieola – Change in ownership and effective control and licence renewal and amendment

Silver Screen Classics – Change in ownership and licence renewal

CHCH-DT Hamilton – Change in ownership

*The Commission **approves** the applications by Moviola: Short Film Channel Inc. (Moviola Short Film), 1490525 Ontario Inc. (1490525) and 2190015 Ontario Inc. (2190015) for authority to effect a change in their ownership. Moviola Short Film, 1490525 and 2190015 are the licensees of the national, English-language specialty Category B services Movieola and Silver Screen Classics and the conventional television station CHCH-DT Hamilton respectively. The Commission also **approves** the change in effective control of Movieola.*

*The Commission **renews** the broadcasting licences for Movieola and Silver Screen Classics from 1 September 2014 to 31 August 2017. These short-term licence renewals will allow for an earlier review of the licensees' compliance with the Commission's regulatory requirements, including requirements regarding the level of Canadian programming that must be broadcast and the submission of accurate and complete program logs.*

Introduction

1. Moviola: Short Film Channel Inc. (Moviola Short Film), 1490525 Ontario Inc. (1490525) and 2190015 Ontario Inc. (2190015) filed applications for authority to

effect a change in their ownership, pursuant to sections 10(4) of the *Specialty Services Regulations, 1990* (the Specialty Services Regulations) and 14(4) of the *Television Broadcasting Regulations, 1987*. Moviola Short Film, 1490525 and 2190015 are the licensees of the national, English-language specialty Category B¹ services Movieola and Silver Screen Classics (Silver Screen) and the conventional television station CHCH-DT Hamilton respectively.

2. Moviola Short Film and 1490525 also filed applications to renew the broadcasting licences for Movieola and Silver Screen, which expire on 31 August 2014.
3. Moviola Short Film is currently owned by Harold Balde, Anthony D'Andrea, C.J. Millar and Romen Podzyhun, each of whom holds 21.25% of the voting shares in the corporation, while other minority shareholders collectively hold 15% of the voting shares.
4. 1490525 is currently owned by Balde, D'Andrea, Millar and Podzyhun, each of whom holds 25% of the voting shares.
5. Finally, 2190015 is currently owned by D'Andrea, Millar and Podzyhun, each of whom holds 23.33% of the voting shares, and 2185220 Ontario Limited (2185220), a corporation wholly owned by Chris Fuoco, which owns 30% of the voting shares in 2190015.
6. Following completion of the transaction:
 - Moviola Short Film will be owned by 2308740 Ontario Inc. (2308740) (85%) and various minority shareholders (collectively 15%). 1490525 and 2190015 will be wholly owned by 2308740.
 - Moviola Short Film, 1490525 and 2190015 will be controlled by 2308740, which is in turn controlled by Millar (39.3%), Podzyhun (39.3%) and Fuoco (21.4%) according to the terms of a unanimous shareholders agreement dated 9 December 2011.
7. The Commission received interventions in support of the applications. The public record for the applications can be found on the Commission's website at www.crtc.gc.ca or by using the application numbers set out above.
8. Having examined the public record for these applications in light of all applicable policies and regulations, the Commission considers that it must address the following issues:
 - the application of the benefits policy, including:

¹ Services previously licensed as Category 2 specialty program undertakings are now renewed as specialty Category B services pursuant to Broadcasting Public Notice 2008-100.

- whether the transaction is subject to the policy and if so, whether an exception is warranted in this case;
- the value of the transaction;
- the tangible benefits proposal; and
- the licence renewals of Silver Screen and Movieola, including:
 - proposed amendments to Movieola’s nature of service; and
 - instances of non-compliance.

Application of the benefits policy

9. For transfers of ownership or control of television programming undertakings, the Commission generally expects applicants to make clear commitments to provide tangible benefits. For television broadcasting undertakings, including conventional, pay and specialty undertakings, the Commission generally expects the contributions proposed to represent 10% of the value of the transaction as determined by the Commission (see Public Notice 1999-97 and Broadcasting Public Notice 2007-53; collectively, the “benefits policy”).

Applicability of the benefits policy and request for an exception

10. The applicants did not propose any tangible benefits in their applications because they were of the view that the benefits policy did not apply to this transaction. In this regard, they cited Broadcasting Decision 2013-738, in which the Commission determined that the benefits policy did not apply where there was no change in ultimate control. They also cited Broadcasting Decisions 96-251 and 2006-309, in which the Commission determined that the benefits policy only applies to cases involving the acquisition of control of a licensee by a person, where such a person, for example, has the ability to cause the licensee or its board of directors to undertake a course of action.
11. The applicants argued that the proposed transaction was similar to these and other decisions that did not trigger benefits because it involves the sale of the interests of two minority shareholders and the acquisition of a minority interest in the licensees by a new shareholder. According to the applicants, no person would acquire effective control as no shareholder would be in a position to cause the licensees or their boards of directors to undertake a course of action and control would continue to be exercised by their respective boards following the transaction.
12. However, in the event that the Commission determined that the transaction would result in a transfer of effective control, the applicants argued that an exception to the benefits policy was warranted for the following reasons:

- the proposed transaction is the result of a longstanding litigation between the parties;
- the terms of the settlement were made on the basis that no tangible benefits would be required and thus the imposition of tangible benefits would require the parties to revisit these terms; and
- there are intangible benefits associated with the transaction as it will place the licensees in a better position to continue their broadcasting operations and allow them to focus on innovation and growth.

Commission's analysis and decision

13. When determining if the benefits policy applies, the Commission must assess whether or not there has been a change in the effective control of a licensee. The definition of effective control in the regulations includes the notion of direct and indirect control of the licensee or its undertaking. Whether control is exercised directly by the shareholders or indirectly through a holding company does not impact the determination of who exercises effective control.
14. With respect to the applicants' argument that the benefits policy only applies to acquisitions of control, as evidenced in Broadcasting Decision 2006-309, the Commission noted in Broadcasting Public Notice 2007-53 that the facts of that decision were unique and the Commission did not consider it to be a precedent.
15. The Commission has therefore analyzed this transaction as it relates to each licensee with a view to determining whether or not effective control would change as a result of the transaction.
16. With respect to the effective control of Moviola, the Commission notes that D'Andrea and Balde are departing shareholders and that Fuoco will indirectly become a minority shareholder. Further, Millar and Podzyhun, who currently collectively hold 42.5% of the voting interest in Moviola Short Film, will collectively indirectly hold 66.8% of its voting interest following the transaction (by way of collectively owning 78.6% of 2308740, which owns 85% of Moviola Short Film). Accordingly, whereas before the transaction, Millar and Podzyhun could be outvoted by other shareholders, after the transaction they will be in a position where they can together exercise effective control of Moviola Short Film. Considering the specific facts of the situation, the Commission is of the view that the transaction will result in a change in the effective control of Moviola Short Film. Accordingly, the Commission considers it appropriate to require tangible benefits on this part of the transaction.
17. With respect to the effective control of Silver Screen, the Commission notes that Balde, D'Andrea, Millar and Podzyhun each currently own 25% of the licensee (1490525). Following the transaction, the licensee will be wholly owned by 2308740, which is owned by Millar (39.3%), Podzyhun (39.3%) and Fuoco (21.4%). Consequently, Millar and Podzyhun, who currently collectively hold 50% of the

voting interest in 1490525, will collectively indirectly hold 78.6% of its voting interest and will remain involved in the undertaking. The factual record regarding how control of Silver Screen is currently exercised is unclear. Accordingly, the Commission accepts the licensee's argument that effective control of Silver Screen has not changed. Accordingly, given the specific facts of the case, the Commission does not consider it appropriate to require tangible benefits on this part of the transaction.

18. Finally, with respect to the effective control of CHCH-DT, the Commission notes that the licensee (2190015) is currently owned by D'Andrea, Millar, Podzyhun and 2185220, a corporation wholly owned by Fuoco. Following the transaction, 2190015 will be wholly owned by 2308740, which is owned by Millar, Podzyhun and Fuoco. Given that the transaction will only result in the departure of one shareholder with a minority interest and a change to the voting shares owned by the three remaining shareholders and that no new shareholder will acquire shares in 2190015, the Commission is of the view that the transaction will not result in a change in the effective control of CHCH-DT. Accordingly, the Commission does not consider it appropriate to require benefits on this part of the transaction.
19. While the applicants have argued that an exception to the benefits policy should be granted, the Commission is not persuaded by the applicants' arguments. First, the undertakings are profitable, and second, the Commission considers that the circumstances giving rise to the litigation are a private matter that is not relevant to the Commission's analysis of whether or not the benefits policy applies. Therefore, the Commission is of the view that the applicants have not brought forth compelling arguments to justify an exception and finds that granting an exception would not be appropriate in this case.
20. Accordingly, in light of all of the above, the Commission considers that the applicant should be required to pay tangible benefits on the part of the transaction involving Moviola Short Film.

Value of the transaction

21. As stated in Broadcasting Public Notice 2008-57, the Commission determines the value of the transaction for the purposes of calculating tangible benefits based on the interest being acquired and adds elements such as assumed debt and leases to this value in the same proportion as the interest being acquired. It also includes other considerations to the vendor such as employment or consulting agreements.
22. In this case, the transaction includes the sale of shares by Balde and D'Andrea for \$1.2 million (\$600,000 each). In addition, D'Andrea will be employed at an annual salary of \$100,000 for a three-year period for a total of \$300,000.
23. The share purchase agreements also provide for the payment to the vendors of the following:

- legal fees – the agreement with D’Andrea provides for \$130,000 in legal fees. However, while providing for the payment of such fees, the agreement with Balde does not specify their value. The Commission considers it reasonable to use the same amount as that used for D’Andrea for a total of \$260,000.
 - additional payments – the share purchase agreement with Balde provides for additional payments totalling \$600,000. The agreement does not detail the purpose of these payments but explains that they are not for shares and will be paid to Balde only if the share purchase is completed.
 - payment for consent to judgment – the value of the consent to judgment provided in schedule 8.3 of the share purchase agreement with Balde is \$200,000.
24. Taken together, the purchase price, employment agreement and other considerations (collectively, the settlement considerations) total \$2,560,000.
25. As the Commission has determined that tangible benefits are payable only on the part of the transaction related to the sale of Moviola Short Film, an allocation of the value of the transaction between the services is required. In order to allocate the value of the transaction between the services, the Commission has used the attribution of the purchase price to various corporations set out in the share purchase agreements. The values assigned for Balde for each corporation are added to the values assigned for D’Andrea. The share purchase agreements allocate 30.8% of the value of the purchase price to Moviola Short Film.
26. Based on this allocation, the settlement considerations to be used for calculating the value of the transaction involving Movieola total \$788,480 (30.8% of \$2,560,000).
27. The applicants also provided a list of leases. The value of these leases was calculated only for the remaining term of the leases, without providing for their possible renewal. The Commission generally includes five years of lease payments unless leases are not renewed (the purchaser has or will purchase similar assets in replacement of the expiring leases). Consistent with its general practice, the Commission has calculated the value of assumed leases on a 60-month basis. As a result, the value of the assumed leases totals \$3,224,809. Of this amount, 30.8% is allocated to Moviola Short Film for a value of \$993,241. The Commission’s practice is to include assumed leases in the value of the transaction in the same proportion as the interest being acquired. Consequently, because there is a 42.5% interest in Moviola Short Film being acquired by the purchasers in this transaction, the value of assumed leases totals \$422,127 (42.5% of \$993,241).
28. Finally, when assumed debt has to be allocated as part of the value of the transaction, the Commission generally does not allocate it to a specific licensee. However, in this case, the value of assumed debt is extracted from the financial statements of CHCH-DT, to which was attached a Review Engagement Report. Consequently, the Commission is of the view that it is appropriate to allocate the debt to CHCH-DT

alone. Accordingly, no debt has been allocated for Moviola Short Film. In light of the above, the Commission determines that the value of the transaction for Moviola Short Film is as follows:

Settlement considerations	\$788,480
Assumed debt	\$ 0
Assumed leases	\$422,127
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Total	\$1,210,607
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29. Given its determination above that only the part of the transaction relating to Moviola Short Film is subject to the benefits policy, the Commission **directs** the licensee to pay \$121,060 (10% of \$1,210,607) in tangible benefits, as described below.

Tangible benefits proposal

30. Tangible benefits must benefit the communities served and the broadcasting system as a whole. To be considered a benefit, the proposed contribution must be directed to projects and initiatives that would not normally be undertaken or realized in the absence of the transaction. The contribution must also flow predominantly to third parties, such as independent producers. As well, the Commission's general approach is that at least 85% of benefits must support on-screen programming, while the rest may be dedicated to other purposes, such as social benefits.
31. In this case, the applicants proposed to allocate any tangible benefits to incremental local news and information programming on CHCH-DT over a period of seven years or less. The Commission is concerned that while the proposed expenditures may benefit CHCH-DT and its viewers, they would directly benefit neither the broadcasting system as a whole nor the communities served by the Moviola service. Further, given that local news and information programming is generally produced in-house, the proposal would not benefit third-party independent producers. Finally, the Commission has concerns over whether the programming to be produced and broadcast as a result of this proposal would actually be incremental to what CHCH-DT currently produces and broadcasts or would otherwise broadcast in the absence of the transaction. Accordingly, the Commission does not consider it appropriate to approve this proposal.
32. Rather than require the applicants to submit a new proposal, the Commission is of the view that it would be more appropriate to require that the tangible benefits be paid entirely to the Canada Media Fund (CMF). This will ensure that the funds better serve the broadcasting system as a whole, without the need for an additional process.

33. Finally, with respect to the applicants' proposal to allocate the tangible benefits over a period of seven years or less, the Commission notes that it has determined below that licences for Movieola and Silver Screen should be renewed for a term of three years in light of their non-compliance with certain regulatory requirements. The Commission therefore considers it appropriate to require that the tangible benefits relating to Movieola be payable within its three-year licence term.
34. In light of the above, the Commission **directs** Moviola Short Film to allocate the tangible benefits amounting to \$121,060 to the CMF, to be paid in equal annual installments over the three years of Movieola's licence term.

Licence renewals of Silver Screen and Movieola

Proposed amendments to Movieola's nature of service

35. In their licence renewal applications, Moviola Short Film and 1490525 confirmed that they would adhere to the standard conditions of licence for specialty Category B services set out in Broadcasting Regulatory Policy 2010-786-1. However, Moviola Short Film proposed to amend its condition of licence relating to its nature of service by removing the requirements that it broadcast short-length content and provide a showcase for professional, amateur, student and experimentalist animators and filmmakers in Canada. The amended narrative description of the nature of service would read as follows:

The licensee shall provide a national, English-language specialty Category B service dedicated to the broadcast of the best of musical, dramatic, comical, experimental and animated films and series.

36. Moviola Short Film also requested that it be allowed to broadcast programming from program categories 7(a) Ongoing dramatic series, 7(b) Ongoing comedy series (sitcoms) and 7(d) Theatrical feature films aired on television without the imposition of the standard 10% monthly programming limitation for category 7(d) described in Broadcasting Public Notice 2008-100.
37. When questioned as to whether these changes to Movieola's nature of service definition might render it directly competitive with genre-protected Category A specialty services, the licensee responded that they would not and that the proposed narrative description of the service mirrored that of existing specialty Category B services such as Showcase Action, Showcase Diva and the Hollywood Suites channels Kiss (MGM Channel), Velocity (Warner Films), Love Channel (Sony Movie Channel) and Adventure (AXN Movies, formerly Hollywood Storm). However, in the event that the Commission decided that the proposed nature of service was insufficiently defined to prevent it from becoming directly competitive with Category A services, Moviola Short Film made a number of proposals, including:

- a 10% limitation on the broadcast of independent films in each broadcast month (to prevent Movieola from competing directly with Independent Film Channel, a Category A service);
- a condition of licence restricting all programming broadcast, with the exception of short-film programming, to programs that have been copyrighted at least 10 years before the date of broadcast; and
- an alternate narrative description of the nature of service, which would read as follows:

The licensee shall provide a national, English-language specialty Category B service dedicated to short film and to action and adventure programming. Its action and adventure programming will “run the gamut” from contemporary “popcorn” action and adventure films and series to classical westerns.

38. Movieola Short Film noted that this alternate narrative description of the nature of service was consistent with that of Movietime, a Category B service previously approved by the Commission. Movieola Short Film also explained that it did not propose to limit the nature of short-film programming because this content was not relevant to any Category A service and the intention of the amendment to the nature of service definition was not to disenfranchise short filmmakers but rather to provide greater latitude for short-film content.

Commission’s analysis and decision

39. While Category B services may be directly competitive with each other, they may not compete directly with genre-protected Category A services. Accordingly, when licensing or amending the licences of Category B services, the Commission must determine if the proposed nature of service definition would render the service directly competitive with any Category A service. A nature of service definition not only includes the narrative description of a service, but also its programming categories, its program limits and the language of the service.

40. In the Commission’s view, Movieola Short Film’s original proposal regarding its nature of service definition is too broad and might result in its being directly competitive with existing Category A services, most notably movie-based pay services such as The Movie Network and Movie Central, as well as drama-based services such as Bravo!.

41. Further, the Commission is concerned that while the proposed limitations on the broadcast of independent films and the copyright of films are a step in the right direction, these limits do not properly define the true nature of the service and the type of programming that would be broadcast. However, the Commission is of the view that the proposed alternative narrative description of the service offers a better definition of the actual type of programming that will be broadcast by Movieola,

including a reference to short films which was not included in the original proposal. Finally, as indicated by Movieola Short Film, this narrative description is very similar to that approved by the Commission for the Category B service Movietime. Accordingly, the Commission **approves** this new proposal, as set out in Appendix 1 to this decision.

42. Given this more specific nature of service, the Commission is of the view that the limit on independent films is no longer necessary to prevent Movieola from competing directly with Independent Film Channel. However, to prevent the service from competing directly with other Category A services, the Commission finds it appropriate to impose the following **condition of licence**, as proposed by the licensee:

With the exception of short-film programming, all programming broadcast, including programming from category 7(d), must have been copyrighted at least 10 years before the date of broadcast.

43. Finally, the Commission considers the proposed addition of program categories 7(a), 7(b) and 7(d) is reasonable. Further, since the new narrative description of the service and limitations set out above are clear enough to ensure that it will not become directly competitive with Category A services and since its programming will be centered on short films and action and adventure films and series, the Commission considers that it is not necessary or appropriate to impose the 10% monthly programming limitation for category 7(d) or other specific categories set out in Broadcasting Public Notice 2008-100.

Non-compliance

44. The Commission's analysis of the programming broadcast by Movieola revealed the following instances of apparent non-compliance:

- failure to comply with its condition of licence relating to its nature of service definition by broadcasting programming from categories 7(d) Theatrical feature films aired on TV and 14 Infomercials, promotional and corporate videos from which the service is not authorized to draw its programming in the 2008-2009 through 2012-2013 broadcast years; and
- failure to meet the standard 35% minimum requirement for the level of Canadian programming that must be broadcast over the broadcast year and the evening broadcast period in the 2008-2009 through 2010-2011 broadcast years.²

45. Analysis of the programming broadcast by Silver Screen revealed similar instances of apparent non-compliance, as follows:

² See Public Notice 2000-171-1.

- failure to comply with its condition of licence relating to its nature of service definition by broadcasting programming from categories 2(b) Long-form documentary and 5(b) Informal education/Recreation and leisure from which the service is not authorized to draw its programming in the 2008-2009 through 2012-2013 broadcast years; and
 - failure to meet the standard 35% minimum requirement for the level of Canadian programming that must be broadcast over the broadcast year and the evening broadcast period in the 2008-2009 through 2011-2012 broadcast years.
46. The licensees also failed to meet the expectation that they provide closed captioning for at least 90% of English-language programs broadcast over the broadcast day by the end of their initial licence terms,³ with shortfalls occurring in the 2008-2009 through 2010-2011 broadcast years for both services, as well as the 2011-2012 broadcast year for Silver Screen.
47. With respect to the apparent non-compliances regarding the broadcast of programming from categories not included in the nature of service definition, the licensees explained that these issues were due to human error during the log submission process. Further, according to the licensees, programming from categories 2(b) and 14 was scheduled in error on Silver Screen and Movieola respectively, and such programming has since been suspended and will not air in the future.
48. The licensees explained that the failure to meet Canadian programming requirements was due to the fact that their programming strategy was based on an 18-hour broadcast day instead of a 24-hour broadcast day, while the services' current definition specifies a 24-hour broadcast day. Additionally, no distinction was made between the evening broadcast period and the broadcast day. As a result, the licensees also failed to meet the services' Canadian programming requirements for the evening broadcast period. The licensees stated that they had since adjusted their programming strategies to ensure future compliance with Canadian content requirements.
49. The licensees also acknowledged that the services did not meet the expectation that they caption 90% of all programming by the end of their initial licence terms. However, the licensees committed to investing in hardware and software upgrades, expanding their internal captioning department and working with third-parties, including live captioning services. This will enable them to meet the current requirement to caption 100% of English- and French-language programs broadcast over the broadcast day set out in Broadcasting Regulatory Policy 2010-786-1, to which the services will be subject in the next licence term.

³ The licences for the undertakings were administratively renewed from 1 September 2007 to 31 August 2014 as a result of Broadcasting Decisions 2006-319, 2009-145, 2010-562, 2011-417, 2013-457 and 2014-80.

50. Further, on several occasions, Moviola Short Film failed to provide an accurate program log or machine-readable record of the programming broadcast each month, as required by section 7(2) of the Specialty Services Regulations. Consequently, Commission staff sent numerous letters reminding the licensee of this requirement, as well as the need to ensure the accuracy of logs and the fact that failure to comply with this requirement constitutes a violation of section 7(2) of the Specialty Services Regulations.
51. At the public hearing, Moviola Short Film stated that all logs for Movieola had been submitted and that in only one case (January 2013) was there a late filing. However, the Commission's records indicate differently. Many letters were sent to the licensee reminding it that its program logs had not been submitted within the required 30-day period (i.e. for the months of January, February, May, August, and November 2012, and January 2013).
52. Finally, the licensees stated that they had been working closely with Commission staff since the review of their renewal applications to address all compliance issues and bring the services into compliance. They added that the services were now in full compliance with the requirements for Canadian programming and closed captioning and that they had taken the following steps to ensure future compliance:
- reviewed all internal practices and procedures to find weaknesses;
 - implemented internal monitoring procedures for compliance for all their services;
 - increased scheduling staff and put in place a training process for these schedulers when coding programming for logging purposes;
 - significantly increased closed captioning both internally and through outsourcing;
 - hired a full-time compliance administrator to monitor, measure and correct compliance issues across all services;
 - changed the logging software to Broadview (an industry standard package) and trained personnel in its use; and
 - put in place a formal correction procedure for the identification of logging errors.

Commission's analysis and decision

53. In light of the above, the Commission finds the licensees in non-compliance with their conditions of licence relating to authorized program categories for the 2008-2009 through 2012-2013 broadcast years, as well as with the standard 35% minimum requirement for the level of Canadian programming that must be broadcast over the broadcast year and the evening broadcast period for the 2008-2009 through

2010-2011 broadcast years for Movieola and the 2008-2009 through 2011-2012 broadcast years for Silver Screen.

54. The Commission also finds Movieola Short Film in non-compliance with section 7(2) of the Specialty Services Regulations as it relates to Movieola. The Commission notes that the licensees have since submitted all programming logs for Movieola and Silver Screen. In addition, these programming logs are now accurate and demonstrate that the services are generally in compliance, with one exception: program logs for the month of February 2014 indicate that Movieola's Canadian programming level for the evening broadcast period was 32.2% instead of the required 35%.
55. The Commission acknowledges the licensees' efforts to address the above-noted non-compliance issues. However, notwithstanding these efforts and the measures implemented to ensure future compliance, the Commission remains concerned with the licensees' compliance with each service's obligations during the next licence term given their extensive history of non-compliance, as well as the fact that they had been made aware of the non-compliance issues and failed to properly address them.
56. In light of the many instances of non-compliance for Movieola and Silver Screen, the Commission considers that it would be appropriate to renew the broadcasting licences for the services for a shorter licence term of three years to allow for an earlier review of the licensees' compliance with their regulatory obligations.

Conclusion

57. In light of all of the above, the Commission **approves** the applications by Movieola: Short Film Channel Inc., 1490525 Ontario Inc. and 2190015 Ontario Inc. for authority to effect a change in ownership and effective control.
58. Upon surrender of the current licences issued to the above-noted licensees, new licences will be issued to Movieola Short Film and 1490525 to continue the operation Movieola and Silver Screen Classics respectively.
59. The Commission also **renews** the broadcasting licences for the national, English-language specialty Category B services Movieola and Silver Screen Classics from 1 September 2014 to 31 August 2017. The terms and **conditions of licence** for each service are set out in the appendices to this decision.
60. The short-term licence renewals granted in this decision will allow for an earlier review of the licensees' compliance with their regulatory obligations, including requirements relating to the level of Canadian programming that must be broadcast and the submission of accurate and complete program logs.
61. Further, the Commission reminds the licensees of the importance of being in compliance with all their programming obligations at all times, including the regulatory requirement to submit accurate and complete programming logs within 30 days after the end of each month and to keep such logs accurate and complete at all times.

62. The Commission may consider additional measures if such non-compliance recurs, including additional reporting requirements, short-term licence renewal, the issuance of a mandatory order or the suspension or non-renewal of the licences.

Secretary General

Related documents

- *Administrative renewals*, Broadcasting Decision CRTC 2014-80, 25 February 2014
- *Historia and Séries+ – Acquisition of assets and change in effective control*, Broadcasting Decision CRTC 2013-738, 20 December 2013
- *Administrative renewals*, Broadcasting Decision CRTC 2013-457, 29 August 2013
- *Administrative renewals*, Broadcasting Decision CRTC 2011-417, 12 July 2011
- *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011
- *Administrative renewals*, Broadcasting Decision CRTC 2010-562, 9 August 2010
- *Administrative renewals*, Broadcasting Decision CRTC 2009-145, 17 March 2009
- *Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services – Regulatory policy*, Broadcasting Public Notice CRTC 2008-100, 30 October 2008
- *Allocation of the transaction value in changes in the effective control of broadcasting undertakings – Information bulletin*, Broadcasting Public Notice CRTC 2008-57, 30 June 2008
- *Determinations regarding certain aspects of the regulatory framework for over-the-air television*, Broadcasting Public Notice CRTC 2007-53, 17 May 2007
- *Administrative renewals*, Broadcasting Decision CRTC 2006-319, 28 July 2006
- *Change in effective control*, Broadcasting Decision CRTC 2006-309, 21 July 2006
- *Introductory statement - Licensing of new digital pay and specialty services – Corrected Appendix 2*, Public Notice CRTC 2000-171-1, 6 March 2001
- *Building on success – A policy framework for Canadian television*, Public Notice CRTC 1999-97, 11 June 1999

- *Transfer of control of CFCN Communications Inc.; licence renewals for television undertakings in Alberta; and inter-corporate transactions including transfer of assets of various television undertakings in Ontario, Decision CRTC 96-251, 21 June 1996*

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

Appendix 1 to Broadcasting Decision CRTC 2014-421

Terms, conditions of licence, expectations and encouragements for the national, English-language specialty Category B service Movieola

Terms

The licence will expire 31 August 2017.

Conditions of licence

1. The licensee shall adhere to the conditions set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011.
2. With regard to the nature of service:
 - (a) The licensee shall provide a national English-language Category B specialty service dedicated to short films and to action and adventure programming. Its action and adventure programming will “run the gamut” from contemporary “popcorn” action and adventure films and series to classical westerns.
 - (b) The programming shall be drawn exclusively from the following program categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 2 (a) Analysis and interpretation
 - (b) Long-form documentary
 - 3 Reporting and actualities
 - 5 (b) Informal education/Recreation and leisure
 - 7 Drama and comedy
 - (a) Ongoing dramatic series
 - (b) Ongoing comedy series (sitcoms)
 - (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (e) Animated television programs and films
 - (f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy
 - (g) Other drama
 - 8 (b) Music video clips
 - (c) Music video programs
 - 11 (a) General entertainment and human interest
 - (b) Reality television
 - 12 Interstitials
 - 13 Public service announcements

- (c) With the exception of short-film programming, all programming broadcast must have been copyrighted at least 10 years before the date of broadcast.

For the purposes of the conditions of this licence, “broadcast day” refers to the 24-hour period beginning 6 a.m. each day or any other period approved by the Commission.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

Appendix 2 to Broadcasting Decision CRTC 2014-421

Terms, conditions of licence, expectations and encouragements for the national, English-language specialty Category B service Silver Screen Classics

Terms

The licence will expire 31 August 2017.

Conditions of licence

1. The licensee shall adhere to the conditions set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011.
2. With regard to the nature of service:
 - (a) The licensee shall provide a national, English-language specialty Category B service devoted to Golden Oldies feature films and “B Movies” spanning all genres.
 - (b) The programming must be drawn exclusively from the following categories set out in item 6 of Schedule I to the *Specialty Services Regulations, 1990*, as amended from time to time:
 - 7 Drama and comedy
 - (a) Ongoing dramatic series
 - (b) Ongoing comedy series (sitcoms)
 - (c) Specials, mini-series or made-for-TV feature films
 - (d) Theatrical feature films aired on TV
 - (e) Animated television programs and films
 - (f) Programs of comedy sketches, improvisation, unscripted works, stand-up comedy
 - (g) Other drama
 - 11 (a) General entertainment and human interest
 - (b) Reality television
 - 12 Interstitials
 - 13 Public service announcements
 - 14 Infomercials, promotional and corporate videos
 - (c) With respect to Golden Oldies feature films, all programming drawn from category 7 shall be copyrighted at least 40 years prior to the broadcast year in which it is aired by the service.

- (d) With respect to “B Movies,” all programming drawn from category 7 shall be copyrighted at least 30 years prior to the broadcast year in which it is aired by the service.
- (e) The licensee shall not devote more than 25% of all programming broadcast during the broadcast year to programming drawn from the thriller genre.

For the purposes of the conditions of this licence, “broadcast day” refers to the 24-hour period beginning 6 a.m. each day or any other period approved by the Commission.

Expectations

The standard expectations applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.

Encouragements

The standard encouragements applicable to this licensee are set out in Appendix 1 to *Standard conditions of licence, expectations and encouragements for Category B pay and specialty services – Corrected Appendices 1 and 2*, Broadcasting Regulatory Policy CRTC 2010-786-1, 18 July 2011, as amended from time to time.