



## Broadcasting Decision CRTC 2006-94

Ottawa, 24 March 2006

**Astral Media Radio Inc.**  
Saint-Hyacinthe, Quebec

*Application 2004-0738-9  
Public Hearing in the National Capital Region  
14 November 2005*

### **CFEI-FM Saint-Hyacinthe – Technical changes**

*The Commission **denies** an application to change the authorized contours of CFEI-FM Saint-Hyacinthe, by increasing the effective radiated power and by relocating the transmitter.*

#### **The application**

1. The Commission received an application by Astral Media Radio Inc. (Astral) to change the authorized contours of the French-language commercial radio programming undertaking CFEI-FM Saint-Hyacinthe, by increasing the effective radiated power (ERP) from 3,000 watts to an average ERP of 33,200 watts and by relocating the transmitter. CFEI-FM currently operates at 106.5 MHz.
2. The application was placed on the agenda of the public hearing of 14 November 2005 along with two other applications that were competitive on a technical basis: an application by International Harvesters for Christ Evangelistic Association Inc. to operate an FM commercial religious radio programming undertaking in Montréal at 106.3 MHz (channel 292A) with an average ERP of 324 watts, and an application by René Ferron, on behalf of a company to be incorporated (Mr. René Ferron), to operate a specialty French-language commercial FM radio station in Montréal at 106.3 MHz (channel 292B1) with an average ERP of 500 watts. These two applications are addressed in separate decisions also issued today<sup>1</sup>.
3. Astral stated that the purpose of its application is to improve the reception quality of CFEI-FM's signal in that part of its licensed service area that is currently underserved from a technical perspective. Astral stated that CFEI-FM's service area contains natural obstacles, such as Mont Saint-Hilaire, Mont Saint-Bruno and Mont Rougemont and that with its current ERP, CFEI-FM is not able to offer quality signal reception to residents of Beloeil, McMasterville, Mont-Saint-Hilaire, Otterburn Park, Saint-Basile-le-Grand, Saint-Bruno-de-Montarville, Sainte-Julie and Saint-Mathieu-de-Beloeil.

<sup>1</sup> See *Christian music FM radio station*, Broadcasting Decision CRTC 2006-92, 24 March 2006, and *Specialty FM radio station in Montréal*, Broadcasting Decision CRTC 2006-93, 24 March 2006.

4. Astral submitted that its application is not intended to add communities to CFEI-FM's service area, but rather to improve its signal quality and thus better meet the needs of commercial, government and association advertisers, expand its listener base and compete more effectively with other media in the market.
5. Astral indicated that it would be prepared to accept a condition of licence prohibiting it from soliciting or accepting advertising in the Montréal, Longueuil, Iberville and Saint-Jean-sur-Richelieu markets. Astral further committed to increase its annual contribution to MusicAction from \$400 to \$3,000, if its application were approved.

## **Interventions**

6. The Commission received several interventions supporting and opposing this application and one comment. Several of the opposing interventions were filed by broadcasters in Montréal and surrounding area who were concerned about the negative impact of Astral's proposal on their undertakings.
7. Cogeco Diffusion inc. and Corus Entertainment Inc. argued that, if the application were approved, Astral would be operating a third French-language commercial FM radio station in the Montréal market in addition to CKMF-FM and CITE-FM, which would give it an undue advantage over its competitors and would be contrary to the Commission's policy on common ownership of broadcasting undertakings within a single market<sup>2</sup>.
8. The Coopérative de travail de la radio de Granby et Radio-Diffusion Sorel-Tracy inc. expressed concern that the proposed increase in ERP would significantly facilitate CFEI-FM's penetration of their market, and represented a threat to their respective advertising markets and audiences.
9. Radio communautaire de la Rive-Sud inc., supported by, among others, Members of Parliament Maka Kotto, Carole Lavallée and Caroline St-Hilaire, noted that Astral's application contains no fundamental elements different from its application denied in 2003<sup>3</sup>, and that approval of the present application would unduly deprive its station of revenue that would affect the nature of its community mission commitments.

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<sup>2</sup> According to the Commission's policy on common ownership of broadcasting undertakings, set out in *Commercial Radio Policy 1998*, Public Notice CRTC 1998-41, 30 April 1998, in a market like Montréal served by eight or more commercial French-language stations, a person would be restricted to ownership or control of up to two AM and two FM stations operating in that language.

<sup>3</sup> See *Introductory statement to Broadcasting Decisions CRTC 2003-192 to 2003-203: Applications related to radio stations in the Province of Quebec*, Broadcasting Public Notice CRTC 2003-33, 2 July 2003, and *Denial of various applications considered at the 3 February 2003 Montréal Public Hearing*, Broadcasting Decision CRTC 2003-204, 2 July 2003.

10. The Association des radiodiffuseurs communautaires du Québec opposed the granting of licences to new stations in the Montréal market. It noted that the imbalance in the advertising market caused by the arrival of new alternative and specialty stations, and the concentration of media, have created an almost unbearable situation for community radio stations in Montréal.
11. Mr. René Ferron, whose application is competitive with Astral's application on a technical basis, submitted that Astral's proposed increase in CFEI-FM Saint-Hyacinthe's ERP would not solve the problems identified by Astral, and that other technical solutions were possible. Mr. Ferron added that Astral's proposed power increase would compromise the feasibility of the proposal that he had filed with the Commission, the aim of which is to establish a station in Montréal dedicated to the sole objective of bringing together members of different cultural communities and people born in Canada.
12. Canadian Hellenic Cable Radio Ltd. (CHCR) stated that it was concerned about the process by which the Commission published the application without first issuing a call for applications. CHCR noted that the Commission recently approved four radio stations in Montréal, and stated that it was simply too early to consider others. CHCR also noted that 106.3 MHz would be the last FM radio frequency available in Montréal, and as a result would be extremely valuable.
13. In its comment, the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ) underlined the importance of the commitments that applicants must make with respect to Canadian content, French-language vocal music and Canadian talent development.

**Astral's reply**

14. Astral challenged the interveners' argument that, if its application were approved, it would be operating a third French-language FM radio station in Montréal. The applicant noted that the Commission defines the licensed service area of an FM station as "the lesser of the station's 3 mV/m contour and the Central Area (as defined by BBM) of the community served by the station." Astral stated that, if the proposed changes to CFEI-FM's technical parameters were approved, the city of Montréal would not in any way – not completely and not partially – be included within CFEI-FM's 3 mV/m contour.
15. With respect to the interveners' concerns that CFEI-FM could encroach on the local advertising markets of other radio stations, Astral noted that it made firm commitments in this respect, such as not soliciting or accepting local advertising in the Montréal, Saint-Jean-sur-Richelieu, Iberville and Longueuil markets. Astral added that it would have no objection to adding Granby and Sorel-Tracy to this list.

16. Astral stated that it does not share the interveners' vision regarding the use of 106.3 MHz in Montréal, and maintained that it is more in the public interest to allow listeners in a neighbouring market to receive a quality signal from their existing local station than to allocate the frequency to a new low-power station aiming to serve a central market that is already abundantly served by radio stations of all types.

### **Commission's analysis and determination**

17. The Commission notes that this application is the fourth attempt to improve CFEI-FM Saint-Hyacinthe's signal in its licensed area. In *Amendments to CFEI-FM's power and coverage area as well as relocation of its transmitter - Approved*, Decision CRTC 96-209, 12 June 1996, the Commission approved a decrease in the ERP from 3,000 watts to 640 watts and the relocation of the transmitter from Saint-Hyacinthe to the summit of Mont Rougemont to clear the obstacle created by Mont Saint-Hilaire and provide better service to the communities of Beloeil and Saint-Hilaire. In *Increase in power for CFEI-FM*, Decision CRTC 99-32, 2 February 1999, the Commission approved an increase in the ERP from 640 watts to 3,000 watts in order to change the station's coverage area by shifting it to the northeast.
18. In *Introductory statement to Broadcasting Decisions CRTC 2003-192 to 2003-203: Applications related to radio stations in the Province of Quebec*, Broadcasting Public Notice CRTC 2003-33, 2 July 2003, and *Denial of various applications considered at the 3 February 2003 Montréal Public Hearing*, Broadcasting Decision CRTC 2003-204, 2 July 2003, the Commission denied Astral's application to increase CFEI-FM's ERP from 3,000 watts to an average ERP of 33,200 watts. The Commission determined that the applicant did not clearly demonstrate that its licensed area was underserved. The Commission considered that Astral's proposal would result in a significant increase in CFEI-FM's coverage area with no assurance of improvement in the service area.
19. In the present application, Astral again proposed to increase CFEI-FM's ERP from 3,000 watts to an average ERP of 33,200 watts and to relocate the transmitter. The result would be a significant expansion of the station's authorized contours, particularly in the direction of Montréal. Even if the proposed new primary service area (3 mV/m) would not reach the boundaries of the city of Montréal, the secondary service area (0.5 mV/m) would encompass a section of the city's east end.
20. Given the short distance between Saint-Hyacinthe and Montréal and the proximity of CFEI-FM's current frequency of 106.5 MHz to the 106.3 MHz frequency proposed by the two other applications to operate new radio stations in Montréal, the three applications are competitive on a technical basis. Although the two applications proposing to use 106.3 MHz in Montréal are denied in decisions issued today, the Commission notes that approval of Astral's application could prevent future use of 106.3 MHz in the Montréal area, which is one of the last FM frequencies available in this large market.

21. The Commission notes that Astral stated in its application that its primary goal is to improve the reception quality of CFEI-FM's signal within its current licensed area. Despite the presence of natural obstacles that are a challenge to the propagation of any FM signal in the current service area, the Commission considers that a proposal resulting in the significant expansion of the coverage area by increasing CFEI-FM's ERP is not an appropriate solution under the circumstances.
22. The Commission is not convinced that the technical solution proposed by Astral is the only solution that would enable it to improve the quality of CFEI-FM's signal in its current market. The Commission considers that there are other possible technical solutions and that these solutions merit further consideration.
23. In light of the foregoing, the Commission **denies** the application by Astral Media Radio Inc. to change the authorized contours of French-language commercial radio programming undertaking CFEI-FM Saint-Hyacinthe, by increasing the ERP from 3,000 watts to an average ERP of 33,200 watts and by relocating the transmitter.

Secretary General

*This decision is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*