



## Broadcasting Decision CRTC 2006-87

Ottawa, 24 March 2006

### **Hector Broadcasting Company Limited**

New Glasgow, Nova Scotia

### **Astral Media Radio Atlantic Inc.**

New Glasgow, Nova Scotia

### **Atlantic Broadcasters Limited**

New Glasgow, Nova Scotia

### **Acadia Broadcasting Limited**

New Glasgow, Nova Scotia

*Applications 2004-1354-2, 2003-1748-9, 2004-1353-4, 2004-1349-3*

*Public Hearing at Charlottetown, Prince Edward Island*

*3 October 2005*

### **English-language FM radio station in New Glasgow**

*In this decision, the Commission **approves** an application by Hector Broadcasting Company Limited for a broadcasting licence to operate a new English-language FM radio station at New Glasgow to replace its AM station CKEC, which is the only local commercial radio station in that market.*

*The Commission **denies** the applications by Astral Media Radio Atlantic Inc., Atlantic Broadcasters Limited and Acadia Broadcasting Limited for broadcasting licences to operate English-language commercial FM radio stations at New Glasgow.*

### **The call for applications**

1. On 15 September 2004, the Commission announced that it had received an application for a broadcasting licence to provide a commercial radio service to serve New Glasgow, Nova Scotia, and called for applications from other parties wishing to obtain a licence to serve this area (see *Call for applications for broadcasting licences to carry on radio programming undertakings to serve New Glasgow, Nova Scotia*, Broadcasting Public Notice CRTC 2004-68.) The Commission advised potential applicants that they would be required to provide evidence giving clear indication that there is a demand and a market for the service they propose, and that they should address, among other things:
  - the contribution that the proposed service will make to achieving the objectives established in the *Broadcasting Act* (the Act) and, in particular, to the production of local and regional programming;

- the factors relevant to the evaluation of applications, as outlined in *Introductory statement – Licensing new radio stations*, Decision CRTC 99-480, 28 October 1999, these being the quality of the application (including the business plan), the diversity of news voices, market impact and the competitive state of the market;
- the means by which the applicant will promote the development of Canadian talent, including local and regional talent;
- an analysis of the markets involved and potential advertising revenues, taking into account the results of any survey undertaken supporting the estimates; and
- evidence as to the availability of financial resources consistent with the requirements established in the financial projections of the applicant's business plan.

## **The applications**

2. The Commission received three applications in response to its call. These, together with the application that prompted the call, were considered at the 3 October 2005 Public Hearing in Charlottetown, Prince Edward Island. The applicants, in the order of their appearance at the public hearing, were as follows:
  - Astral Media Radio Atlantic Inc. (Astral),
  - Atlantic Broadcasters Limited (Atlantic),
  - Acadia Broadcasting Limited (Acadia), and
  - Hector Broadcasting Company Limited (Hector).
3. Astral, Atlantic and Acadia each proposed to operate new, conventional, English-language commercial FM radio stations in the New Glasgow market. Hector proposed to establish a new FM radio station to replace its existing AM radio station, CKEC New Glasgow. All four applications proposed the use of the frequency 94.1 MHz, and were thus technically mutually exclusive.
4. In the context of this proceeding, Astral, Atlantic and Acadia expressed the common view that the New Glasgow/Pictou County market was one unified market, and that both economic indicators and the level of out-of-market tuning show that the market could support the entry of a new radio service.
5. Hector disagreed with that view, noting that five towns make up the principal population of Pictou County. Hector stated that "Deriving advertising dollars from this kind of market is not the same as in a one-city market of the same size. Many of the retailers, particularly in the smaller communities, are not of sufficient size that they can afford to advertise on radio or in a daily newspaper."

## Astral

6. Astral proposed a new FM radio station offering a Hot Adult Contemporary (Hot AC) format that would feature new rock and pop releases, targeted to an audience aged 25 to 54. The applicant indicated that 40% of all Category 2 musical selections on the proposed station would be devoted to Canadian selections, both during the broadcast week and during the period from 6:00 a.m. to 6:00 p.m. each weekday. The proposed level of Canadian content would exceed the minimum level of 35% required of commercial radio stations under the *Radio Regulations, 1986* (the Regulations).
7. Astral owns and operates radio stations in New Brunswick and Nova Scotia, including CKTY-FM and CKTO-FM in Truro, Nova Scotia. While New Glasgow is only approximately 60 kilometres from Truro, the applicant indicated that, with the exception of producing CDs that would be made available to all other Astral radio stations in the Maritimes, no significant synergies would exist between the Truro stations and the proposed station in New Glasgow.
8. During each broadcast week, Astral proposed that 11 hours of spoken word programming would be offered, and of that amount, approximately 6 hours and 20 minutes would be devoted to news, sports and weather.
9. Astral indicated that all of the spoken word programming would be relevant to the community of New Glasgow. It stated that the proposed station would offer a feature to be called *Community Focus*, three times each day, to promote local events and activities, and to provide details about community festivals, cultural events and issues. Airtime would also be devoted to the promotion of major annual events such as the Pictou Lobster Carnival, Christmas at the Square, the New Glasgow Jubilee and the Festival of the Tartans. The applicant stated its intention that all of the proposed station's programming would be locally produced, but that it wished to retain the flexibility to offer a maximum of 10 hours per week of Canadian syndicated programming. Further, Astral made a commitment to establish a Local Advisory Board to provide ongoing input on issues such as spoken word content and public service campaigns. The Local Advisory Board would also play a key role in the station's approach to cultural diversity.
10. With respect to Canadian talent development (CTD), Astral indicated that it would support the CTD plan developed by the Canadian Association of Broadcasters (CAB), at the annual contribution level of \$400 identified in that plan for small markets such as New Glasgow. In addition, if its application were approved, Astral would make contributions to CTD of \$99,600 in each year of a seven-year licence term, distributed as follows:
  - \$24,600 to the Foundation to Assist Canadian Talent on Record (FACTOR),
  - \$10,000 to the New Glasgow Jubilee, to compensate regional artists appearing at that event, and

- \$65,000 to the Astral Jubilee Music Competition, which is open to all Canadian performers who do not have a major recording contract.

#### **Acadia**

11. Acadia proposed a new, commercial FM radio station offering a Classic Rock format. The proposed station would target an audience aged 24-54.
12. Acadia is the licensee of CKBW-FM Bridgewater, Nova Scotia as well as radio stations in Saint John and St. Stephen, New Brunswick. The applicant stated that, while there would be exchanges of news stories of mutual interest, the news department of the proposed new station would be separate from the news departments of CKBW-FM and Acadia's radio stations in New Brunswick.
13. The applicant made a commitment that at least 35% of all Category 2 (popular) music and 10% of all Category 3 (special interest) musical selections would be devoted to Canadian musical selections. While these levels are the minimum levels required by the Regulations, at the hearing, Acadia indicated that if its application were approved, it was prepared to increase its commitment for Canadian content to a minimum of 40% of all Category 2 (popular) music to Canadian selections between 6:00 a.m. and 6:00 p.m. daily and between 6:00 a.m. and midnight each day.
14. The station proposed by Acadia would offer live programming daily between 6:00 a.m. and 6:00 p.m. At least 15 hours of each broadcast week would be devoted to spoken word programming, exclusive of disc jockey chit-chat and music introductions. Station produced newscasts would represent 13 hours of all spoken word programming, and 75% of the weekly time devoted to newscasts, representing 9 hours and 52 minutes, would focus on local/regional Pictou County news. The remaining spoken word programming would be devoted to lifestyle and community affairs information.
15. Acadia indicated that it would support the CAB CTD plan, at the \$400 annual contribution level identified for small markets such as New Glasgow. In addition, Acadia proposed to contribute an additional \$29,600 annually, distributed as follows:
  - \$7,000 to FACTOR,
  - \$16,600 to a local talent development fund, and
  - \$6,000 for BYOI Nights (Bring Your Own Instrument / open stage concerts).

#### **Atlantic**

16. Atlantic owns and operates CJFX-FM Antigonish, Nova Scotia. The applicant proposed a new, commercial FM radio station to serve New Glasgow, offering a blend of Hot AC and Pop music, targeting an audience aged 18 to 54. Atlantic made a commitment to broadcast 4 hours each week of programming featuring specialty Celtic and East Coast music. The applicant indicated that it would ensure that at least 35% of all Category 2

(popular) music and 10% of all Category 3 (special interest) musical selections would be devoted to Canadian musical selections. These levels are the minimum levels required by all radio stations, under the Regulations. Atlantic stated at the hearing that it was committing to a minimum of 40% Canadian content and would strive for a higher level as evidenced from the playlists submitted with the application.

17. The applicant also proposed that all station programming would be locally- and station-produced. At least 20 hours of each broadcast week would be devoted to spoken word programming, 14 hours of which would be news and related surveillance material such as weather reports. Of the 14 hours of news and related surveillance material, 80%, or 11 hours would be devoted to local or regional coverage. The balance of spoken word programming would focus on lifestyle and community information.
18. With respect to CTD, Atlantic indicated that it would support the CAB CTD plan, at the \$400 annual contribution level identified for small markets such as New Glasgow. In addition, the applicant committed to make contributions to CTD of \$13,900 in each broadcast year, distributed as follows:
  - \$2,000 to scholarships for journalism students at King's College,
  - \$2,000 for scholarships for music students at St. Francis Xavier University,
  - \$4,900 for "Business of Music" seminars, and
  - \$5,000 for New Glasgow Music Festival bursaries.

#### **Hector**

19. Hector has operated AM radio station CKEC, the only local commercial radio station in New Glasgow, since 1953. The applicant indicated that the proposed conversion of its AM station to the FM band would alleviate night-time technical difficulties, thereby allowing Hector to provide better quality service to the community at all times of the day. The applicant's use of frequency 94.1 MHz would result in the proposed new FM radio station's secondary 0.5 mV/m contour enclosing the communities of Antigonish, Truro, Kenzieville, Melrose and Tatamagouche.
20. Hector's proposed new FM radio station would maintain CKEC's existing format, a broad-based AC format targeting an audience aged 25 to 54. The applicant indicated that 100% of its programming would continue to be station-produced, and that its music programming would continue to include specialty music in the genres of Country, Celtic and Nostalgia, all of which would compliment its general AC format.
21. The applicant further committed to provide the same levels of community-oriented spoken word and specialty music programming as are currently offered on CKEC. During each broadcast week, at least 21 hours would be devoted to spoken word programming, of which 9 hours each week would be devoted to news, weather, and traffic information. Of the 9 hours of news and related surveillance material to be broadcast by the new station each week, 50% would be devoted to local New Glasgow stories, as well as a one-hour news magazine program.

22. The applicant indicated that the proposed FM station would support the CTD plan developed by the CAB. Support for the CAB CTD plan represents a contribution of \$400 per year in direct expenditures by broadcasters in small markets such as New Glasgow.

### **Interventions**

23. The Commission received many interventions in support of one or other of the four applications.

#### **The Canadian Independent Record Production Association**

24. The Canadian Independent Record Production Association (CIRPA) submitted an intervention commenting on the Astral, Atlantic and Acadia applications. CIRPA offered general support for the applicants that proposed to offer Canadian content beyond the regulatory minimum, and expressed a general concern with the level of CTD funding proposed to be directed to FACTOR. In CIRPA's opinion, "the best use of CTD contributions is to direct the funds to FACTOR and utilize the expertise and knowledge available to FACTOR to maximize benefits from these monies."

#### **Mr. Roy Dallas**

25. Mr. Roy Dallas offered general comments related to the Astral and Hector applications. Mr. Dallas expressed the view that, while he is happy with CKEC's existing programming, a new FM station is long overdue. Rather than a new station for Hector, he would be in favour of a new voice/new choice in the market.

#### **Astral**

26. Astral indicated that it was not opposed to the conversion of CKEC from the AM to the FM band. Astral was, however, opposed to Hector's technical proposal because as filed, the contour of the proposed Hector FM station would extend into Truro, with the potential to have a negative financial impact on Astral's two FM stations which serve that market.

#### *Hector's reply*

27. In response to Astral's concerns regarding the impact of a new Hector station on Astral's two radio stations in Truro, Hector stated that "We have already made adjustments to our technical proposal because of requirements to protect a Halifax station, CJLU-FM. These adjustments do have the effect of reducing the proposed coverage in the Truro area."

### **Acadia**

28. Acadia submitted interventions commenting on both the Astral and the Atlantic applications. In Acadia's view, neither of those proposals would reflect the best use of the radio spectrum in Pictou County, because Astral and Atlantic currently have FM radio stations on the periphery of Pictou County, and already draw audience away from the New Glasgow station.
29. In commenting on the Hector application, Acadia indicated its support for the conversion of CKEC to the FM band, and stated that, to avoid technical mutual exclusivity with the Hector proposal, it would be willing to accept an alternate frequency for use, if its application were also to be approved.

### **Hector**

30. Hector filed interventions in opposition to the Astral, Atlantic and Acadia applications. Hector was of the view that, if any application other than its own were to be approved, CKEC would be unable to compete in the market, and the station might not survive. Hector disputed the economic statistics submitted by other applicants, arguing that the economic outlook for Pictou County is much less optimistic than other applicants have stated. Hector also stated that both Astral and Atlantic have radio stations which draw audience and revenues from the New Glasgow market, and approval of those applications would therefore not add to the diversity of voices in the market, and would have a further negative impact on competition.

### **Astral's reply**

31. Astral indicated that its proposal would bring news and musical diversity to a younger audience in Pictou County, with a high level of support for Canadian talent and regional artists. Astral stated that economic studies show that the market is capable of supporting two radio stations, and that CKEC would not suffer undue negative impact if Astral's proposal was approved.

### **Atlantic's reply**

32. Atlantic indicated that many of the supporting interventions for its proposal express the view that choice in local radio listening options is desired, and that the out-of-market tuning experienced in Pictou County will remain a reality if a new voice is not licensed.

### **Acadia's reply**

33. In reply to Hector's comments relating to the economic statistics provided by other applicants, Acadia indicated that the source used by Acadia, FP Canadian Demographics 2004, is widely accepted by the broadcast industry as a reliable source of demographic and retail sales projections. Acadia also disputed Hector's concern that Acadia's proposed station would duplicate the service currently provided by CKEC, and indicated that there would be less than a 10% duplication in musical selections between CKEC and Acadia's proposed new FM station.

## **Commission's analysis and determinations**

### **Quality of the various applications**

34. The Commission assessed each applicant's overall business plan, including the proposed format, Canadian content commitments, the reflection of the community and local programming proposals, as well as Canadian talent development proposals, and considers that each of the proposals represented a service that would be of high quality. The Commission also considers that all of the applicants presented viable business plans, and that each demonstrated clearly the financial capacity necessary to fulfil its respective business plan.

### **Market impact and the competitive state of the market**

35. The Commission notes that, in addition to CKEC, New Glasgow area listeners are served by a variety of out-of-market radio stations, including CBHA-FM Halifax and CBCH-FM Charlottetown, both of which offer CBC's Radio Two network programming; CKTY-FM and CKTO-FM Truro, which offer Country music and "EZ Rock" programming, respectively; CHLQ-FM and CFCY Charlottetown which offer Hot AC and Country music respectively; CHTN Charlottetown, which offers an Oldies format; and CJFX-FM Antigonish, which provides a Hot AC/Classic Rock Gold musical format.
36. While the Commission's predisposition generally lies in favour of increased competition and diversity, and the improvements in the overall quality of available services that these promote, it must also ensure that the competitive impact of a new radio station on a market will not impinge unduly on the ability of any existing station to meet its programming responsibilities under the Act.
37. In 2004, the average profit margin before interest and taxes (PBIT margin) for all radio stations in Canada was 18.24%, and for all radio stations in Atlantic Canada it was 24.78%. In 2005, the Canadian and Atlantic Canada PBIT margins increased to 20.94% and 27.27% respectively. In contrast to the national and regional trends, however, the PBIT margin for CKEC, the only incumbent New Glasgow radio station, was considerably lower than the national and regional averages in both 2004 and 2005. In fact, the profitability of CKEC decreased between 2004 and 2005.
38. Accordingly, given the current low level of profitability of the only incumbent station in the market and the regional competition for advertising revenues, the Commission concludes that the New Glasgow market is not strong enough to support the licensing of an additional radio station at this time, without serious negative financial impact on the incumbent service. Further, the applicants failed to present compelling evidence that the market will produce the economic growth required to support a new station. The Commission is confident however, that the conversion of CKEC to the FM band will provide an opportunity for the incumbent service to rejuvenate its position in the New Glasgow market, while providing a better quality service to its listeners.



39. In light of the above, the Commission **approves** the application by Hector Broadcasting Company Limited for a broadcasting licence to operate an English-language, commercial FM radio programming undertaking in New Glasgow, to replace its AM station CKEC. The new station will operate at 94.1 MHz (channel 231C1) with an average effective radiated power of 36,680 watts.
40. Given the Commission's determination that the New Glasgow radio market can only support the licensing of the proposal by Hector, the Commission **denies** the applications by Astral Media Radio Atlantic Inc., Atlantic Broadcasters Limited and Acadia Broadcasting Limited for broadcasting licences to operate English-language commercial FM radio programming undertakings in New Glasgow.
41. The licence to be issued to Hector will expire 31 August 2012. It will be subject to the **conditions** set out in *New licence form for commercial radio stations*, Public Notice CRTC 1999-137, 24 August 1999.
42. Hector is further authorized, by **condition of licence**, to simulcast the programming of the new FM station on CKEC for a transition period of three months following the commencement of operations of the FM station. Pursuant to sections 9(1)(e) and 24(1) of the Act, and consistent with Hector's request, the Commission **revokes** the licence for CKEC effective at the end of the simulcast period.

### **Issuance of the licence**

43. The Department of Industry (the Department) has advised the Commission that, while this application is conditionally technically acceptable, it will only issue a broadcasting certificate when it has determined that the proposed technical parameters will not create any unacceptable interference with aeronautical NAV/COM services.
44. The Commission reminds the applicant that, pursuant to section 22(1) of the Act, no licence may be issued until the Department notifies the Commission that its technical requirements have been met, and that a broadcasting certificate will be issued.
45. Furthermore, the licence for this undertaking will be issued once the applicant has informed the Commission in writing that it is prepared to commence operations. The undertaking must be operational at the earliest possible date and in any event no later than 24 months from the date of this decision, unless a request for an extension of time is approved by the Commission before 24 March 2008. In order to ensure that such a request is processed in a timely manner, it should be submitted at least 60 days before that date.

## **Cultural diversity**

46. In *Commercial Radio Policy, 1998*, Public Notice CRTC 1998-41, 30 April 1998, the Commission encouraged broadcasters to reflect the cultural diversity of Canada in its programming and employment practices. The Commission expects Hector to adhere to its commitment to reflect the cultural diversity of Canada in its programming and employment practices.

## **Employment equity**

47. In accordance with *Implementation of an employment equity policy*, Public Notice CRTC 1992-59, 1 September 1992, the Commission encourages Hector to consider employment equity issues in its hiring practices and in all other aspects of its management of human resources.

Secretary General

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