

OFFICIAL ENGLISH TRANSLATION

Citation: *Commissioner of Competition v Astral Media Inc.*, 2002 Comp Trib 17

File No: CT-2001-010

Registry Document No: 32

IN THE MATTER OF an application by the Commissioner of Competition for an order pursuant to section 92 of the *Competition Act*, RSC 1985, c C-34;

AND IN THE MATTER OF the proposed acquisition by Astral Media Inc. of all of the broadcasting undertakings of Telemedia Radio Inc. located in the Province of Quebec and the Maritime Provinces, and of Telemedia's 50% interest in Radiomedia Inc.

BETWEEN:

The Commissioner of Competition
(applicant)

and

Astral Media Inc.
Telemedia Radio Inc.
Radiomedia Inc.
(respondents)

Date of hearing by conference call: 2002-04-09

Before: Nadon J. (presiding judicial member)

Date of order: 2002-04-09

Order signed by: Mr. Justice Nadon

ORDER AMENDING THE ORDER DATED FEBRUARY 21, 2002

[1] FURTHER TO the application made by the Commissioner of Competition (the “Commissioner”) pursuant to section 92 of the *Competition Act* (the “Act”), RSC 1985, c C-34, for an order directing the Respondents, Astral Media Inc. (“Astral”), Telemedia Radio Inc. (“Telemedia”) and Radiomedia Inc. (“Radiomedia”), not to proceed with the portion of the proposed Transaction involving the acquisition by Astral of Telemedia’s eight French-language radio stations located in the Province of Quebec and Telemedia’s 50% interest in Radiomedia;

[2] AND UPON READING the letter to the Registrar of the Competition Tribunal (“Tribunal”) dated January 2, 2002, which states that notices of application for originating motions by Astral and Telemedia against the Commissioner and others have been filed in the Federal Court of Canada (“Federal Court”), Trial Division, seeking a declaration that the Act does not apply to the purchase by Astral of all of Telemedia’s broadcasting undertakings in the Province of Quebec and the Atlantic Provinces (the “Proposed Transaction”), and accordingly, that the Commissioner has no jurisdiction to act under the Act with respect to the Proposed Transaction, which is subject to the exclusive jurisdiction of the Canadian Radio-television and Telecommunications Commission;

[3] AND WHEREAS the Commissioner and the Respondents agree that the time for filing a response under subsection 5(1) of the *Competition Tribunal Rules* (the “Rules”) should be further extended;

[4] AND WHEREAS the order of January 18, 2002, extends the time for filing a response to February 27, 2002, and whereas the second order of February 21, 2002, extends the time for filing a response to April 15, 2002;

[5] AND WHEREAS the Judicial Administrator of the Federal Court, by order dated March 26, 2002, has set May 13, 2002, as the date for hearing the Telemedia and Radiomedia applications for judicial review, Federal Court docket numbers T-2257-01 and 2256-01;

[6] AND WHEREAS subsection 68(3) of the Rules states that time limits may only be extended by order of a judge;

[7] AND WHEREAS the Respondents have undertaken not to complete the Proposed Transaction without giving seven business days’ prior notice to the Commissioner; and if an application for an injunction is subsequently served by the Commissioner, the Respondents undertake not to complete the Proposed Transaction prior to termination of the hearing on that application for an injunction;

[8] AND IT BEING UNDERSTOOD by the Respondents that this request for an extension of time to file a response with the Tribunal is made subject to the Federal Court proceedings in which they are challenging the application of the Act to the Proposed Transaction;

[9] AND IT BEING UNDERSTOOD that the Commissioner's position with respect to the notices of applications to the Federal Court for originating motions is that the Tribunal has jurisdiction to hear the application filed by the Commissioner under section 92 of the Act;

[10] HAVING HEARD from counsel for the parties in a conference call on April 9, 2002, regarding this request for an extension of time to file a response;

[11] AND UPON BEING SATISFIED that this order is warranted in this case;

THE TRIBUNAL ORDERS THAT:

[12] The time limit for filing the response before the Tribunal is extended for up to 30 days following the ruling by the Federal Court, Trial Division, on the question of jurisdiction.

[13] If the hearing before the Federal Court, Trial Division, is not held as scheduled during the month of May or June 2002, the parties will be required to appear before the Tribunal within seven business days of the day on which the hearing is rescheduled to be heard on whether the stay of proceedings before the Tribunal should be amended.

DATED at Ottawa, this 9th day of April 2002.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) Marc Nadon

Certified true translation
Johanna Kratz

APPEARANCES

For the applicant:

The Commissioner of Competition

Rhéal Forest

Carole Johnson

For the respondents:

Astral Media Inc.

Radiomedia Inc.

Louis P. Bélanger

Telemedia Radio Inc.

Yves Bériault

Madeleine Renaud