

ORIGINAL

WILEY, REIN & FIELDING

1776 K STREET, N.W.  
WASHINGTON, D. C. 20006  
(202) 429-7000

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FACSIMILE  
(202) 429-7049

WRITER'S DIRECT DIAL NUMBER

(202) 429-7269

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, D.C. 20554

Re: Ex parte presentation, RM-8610

On April 7, 1995, Carl R. Frank of Wiley, Rein & Fielding; Robert Briskman and David Margolese of CD Radio, Inc.; and Peter Pitsch, made a presentation to William E. Kennard and Robert Calaff of the General Counsel's Office regarding Digital Audio Radio Services (DARS). The presentation covered material already included in the record of this rulemaking and the enclosed additional material.

Sincerely,



Carl R. Frank  
Attorney for CD Radio, Inc.

cc: William E. Kennard  
Robert Calaff

Attachment

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## Multi-Channel Subscription Radio Services Are Available Now

**Two companies currently offer nation-wide, multi-channel, digital subscription radio services without regulatory limits on channel capacity.**

- DMX, a service offered by International Cablecasting Technologies, Inc.
- Music Choice, owned by a consortium of media companies that include Time Warner, Sony, and EMI.
- These companies each offer at least 30 channels of CD-quality subscription music and are implementing 60 channels, with eventual plans to increase to 120.
- DMX and Music Choice are not subject to regulatory constraints on number of channels, whether carried by satellite or cable.

**These services are available to one out of two homes in the United States via cable, and to every home in the U.S. via direct broadcast satellite.**

- *Direct Broadcast Satellite*—Music Choice is distributed by high-power DBS satellite on the Hughes DirecTv system. It is offered as part of the basic programming packages at no additional charge. DirecTv forecasts over 1 million subscribers by mid 1995.
- *Cable*—Both Music Choice and DMX are available on cable systems. Music Choice is available in 30 million homes with cable. Music Choice has approximately 150,000 subscribers. DMX is available in more than 25 million homes, through more than 800 cable systems in 48 states. DMX has nearly 350,000 subscribers.<sup>1</sup>

**Traditional radio's ability to thrive and serve local markets has not been jeopardized by these services.**

- Traditional radio has experienced revenue growth of approximately 10 percent annually for the last two years, during the time these services have been implemented. It has never been healthier.
- The positive outlook virtually all analysts have for the future of traditional radio takes these services into account.

**Regulating the number of channels that satellite DARS operators may transmit would place them at a competitive disadvantage to these other services and is unneeded to assure the viability of free over-the-air radio.**

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<sup>1</sup> DMX is also available in Europe, distributed to 4 million homes through BskyB, a direct broadcast satellite video operator; to 15 million homes through the ASTRA satellite; and to 30 million homes through various cable systems