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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Establishment of Rules and )  
Policies for the Digital )  
Audio Radio Satellite Service )  
in the 2310-2360 MHz Frequency )  
Band )

IB Docket No. 95-91 ✓  
GEN Docket No. 90-357  
RM No. 8610

To: The Commission

DOCKET FILE COPY ORIGINAL

JOINT COMMENTS OF THE DARS APPLICANTS

Submitted by:

AMERICAN MOBILE RADIO CORPORATION

DIGITAL SATELLITE BROADCASTING  
CORPORATION

PRIMOSPHERE LIMITED PARTNERSHIP

SATELLITE CD RADIO, INC.

September 15, 1995

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JOINT COMMENTS OF THE DARS APPLICANTS

1. American Mobile Radio Corporation ("AMRC"), Digital Satellite Broadcasting Corporation ("DSBC"), Primosphere Limited Partnership ("Primosphere"), and Satellite CD Radio, Inc. (collectively, the "DARS Applicants"), by their respective attorneys, hereby submit their joint comments in the above-captioned proceeding. Although each applicant is separately filing individual comments, it will be useful for the Commission to understand a number of key points on which all four DARS Applicants are in agreement.

2. The DARS Applicants hereby affirm, as the Commission has concluded in its Notice, that their proposed DARS systems are capable of operating in the spectrum assigned by the Commission for satellite DARS, 2310-2360 MHz, without causing harmful interference to each others' operations. Although each applicant will address that part of the Notice proposing regulations based on a competitive bidding scenario, it must be emphasized here that such a scenario is unsupported by the record, inconsistent with the public interest, and, moreover, not permitted under authority granted to the Commission.

3. Use of Spectrum. The DARS Applicants urge the Commission to license all 50 MHz allocated to DARS, with each licensee authorized to use 12.5 MHz. The Commission proposal, to license only 40 MHz initially, is based on its concern that use of the 2310-2320 MHz band will necessitate difficult and lengthy international coordination and that, until that process is accomplished, the band will be less useful. The DARS Applicants do not share the Commission's concern that coordination will be a significant impediment to use of the 2310-2320 MHz band by the DARS Applicants.<sup>1</sup> The DARS applicants agree that there is not a significant interference potential and normal coordination procedures can resolve whatever interference actually exists in this band. Individual frequency assignments will be determined either by some chosen milestone, or by the DARS Applicants themselves.

4. In footnote 37 of the Notice, the Commission appears willing to permit the use of the 2310-2320 MHz band to a party who acquires it through competitive bidding on the theory that, if the band is worth less, the price paid will reflect its value. The agreement of the DARS Applicants resolves the Commission's concerns. If the band is suitable for an entity willing to use it pursuant to an auction, then the existing applicants can use the entire S-band allocation. Under these circumstances, there is no reason for the Commission not to license the entire 2310-2360 MHz band to the existing applicants.

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<sup>1</sup> See Analysis prepared by Robert D. Briskman contained in Comments of Satellite CD Radio, filed this day.

5. Terrestrial Gap Fillers. The Applicants agree that gap fillers should be permitted in conjunction with operating satellite DARS systems and on DARS frequencies. Each applicant has a different view of the extent to which gap fillers will be an integral part of its system. Analysis indicates that terrestrial repeaters could be an important method of service quality enhancement for some systems, similar to other enhancement techniques recognized by the Commission. Any spectrum devoted to the retransmission of satellite delivered programming should be permitted only to improve the link margin in difficult propagation environments and not as a service in and of itself.

6. Receiver Inter-Operability and Tunability. The DARS Applicants are committed to exchanging technical data and information and working together to facilitate the development of a satellite DARS receiver capable of being tuned across the entire band implemented for DARS. Such a receiver will stimulate interest in DARS, encourage various manufacturers to begin early receiver production, and provide a user-friendly consumer environment. The DARS Applicants will continue to cooperate with the efforts of the Electronic Industry Association's Consumer Electronics Group (EIA/CEG).

7. The DARS Applicants believe it is premature for the Commission to establish a uniform standard for DARS receivers since, as discussed above, this will be accomplished by the Applicants. There are clearly sufficient market incentives for industry, itself, to develop voluntary standards without the need for government intervention. In this case, the standard setting process can be expected to proceed smoothly because only four

applicants are involved and these applicants have been studying the issues for years. The Commission could not have similar expectations for the development of receiver standards from an unknown number of competitive bidders.

8. Financial Qualifications and Milestones. The DARS Applicants agree with the Commission proposal that, in order to obtain licenses, they submit evidence of how they intend to meet satellite construction and launch costs and first year operating expenses. They also agree with the flexibility shown by the Commission in proposing that estimated income or revenues anticipated from proposed operations can be used to show evidence of financial capability. The DARS Applicants also agree with the proposal that, within a year of grant, they demonstrate full funding of their systems. Moreover, the DARS Applicants are in agreement with the Commission's proposals that they begin satellite construction within one year, launch within four years, and operate their full systems within six years of license grant.

9. Orthogonally Polarized Emissions. In its Notice the Commission concluded that it did not have sufficient information to judge the extent of potential capacity increases that might be enabled by the use of orthogonally polarized transmissions. Nevertheless, it proposed that the DARS licensees be permitted to use orthogonal polarization within their assigned bandwidth and be permitted as well to reach agreements to transmit using orthogonally polarized frequencies in each other's frequency assignments. The DARS Applicants are in agreement that this proposal represents the best approach to dealing flexibly with the assigned spectrum.

10. Service Link Margin and Data Rates. The DARS Applicants agree that the Commission should not specify a service link margin, but rather, as proposed, simply require each licensee to identify its own service link margin suitable for the areas it intends to serve. Similarly, it is agreed that each licensee should be permitted to specify the data rates for its services depending on the different programs and formats that will be delivered to the consumer. For example, a voice-only channel may not require the same data rate as a music channel. Also, different data rates -- even for similar formats -- should be permitted among and between licensees. It is to be expected that each applicant will be guided on this issue largely by market acceptance of its service.

11. The DARS Applicants note that the proposed definition of "satellite DARS" unintentionally might limit the service to the provision of "compact disc quality audio programming." (Proposed 47 C.F.R. Sec. 25.201.) Consistent with the Notice's tentative conclusion that variable data rates and programming content are possible, The DARS Applicants urge the Commission to delete the words "compact disc quality" from this definition to remove any ambiguity.

Respectfully submitted,

AMERICAN MOBILE RADIO CORPORATION

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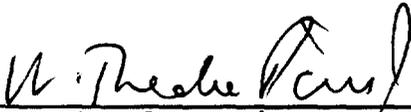


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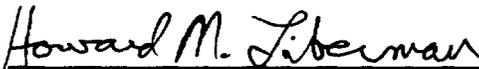
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