



EX PARTE OR LATE FILED

Legal Department

1771 N Street NW • Washington, DC 20036-2891
(202) 429-5430 • Fax: (202) 775-3526

September 14, 2001

Notice of Ex Parte Communication

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RECEIVED

SEP 14 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: IB Docket No. 95-91
SAT-STA-20010712-00063
SAT-STA-20010724-00064

Dear Ms. Salas:

Yesterday, Jeff Baumann, Jack Goodman, Karen Kirsch, David Layer and the undersigned met with Donald Abelson, Rosalee Chiara, Susan Eid, Alexandra Field, Keith Larson, Joan McClenney, Christopher Murphy, Roderick Porter and Ronald Repasi, to discuss various issues relating to XM Radio, Inc. ("XM") and Sirius Satellite Radio Inc.'s ("Sirius") Requests for Special Temporary Authority ("STA") to operate terrestrial repeaters with their Satellite Digital Audio Radio Service ("SDARS") systems. We made the following points:

■ We are concerned that the SDARS licensees' proposed service rules would allow local origination or insertion of locally-targeted programming. On its face, their current proposal appears to echo the SDARS licensees' pledge not to transmit locally-originated programming, but upon closer examination of their broad language, the SDARS proposed rule *does not preclude locally originated material* and, as such, contravenes the Commission's tentative conclusion to prohibit the use of terrestrial repeaters to transmit locally originated programming. The Commission should condition any STA to explicitly require terrestrial repeaters to retransmit the *complete and identical signal from the primary station, intended for the consumer satellite receivers, simultaneous to the time it is transmitted.*

■ In the absence of service rules for use of terrestrial repeaters, it appears that XM and Sirius are relying on the FCC's granting them temporary authorization in order to commence nationwide commercial operation of a largely terrestrial radio service. To date, however, XM and Sirius have failed to demonstrate any need for such a large number of high-power terrestrial repeaters. We are concerned that the current build-out

No. of Copies rec'd 071
List ABCDE

Ms. Magalie R. Salas
September 14, 2001
Page 2

of extensive terrestrial digital radio networks provides the satellite radio licensees the future opportunity to operate totally divorced of the satellite transmission systems that they supposedly complement. Allowing the use of terrestrial repeaters sets the stage for XM and Sirius to offer nothing more than a satellite-fed terrestrial radio service, or worse, a completely independent terrestrial service, thereby totally circumventing the Commission's stated intentions of establishing a high-tech direct broadcast satellite radio service for the U.S. listening public, that would serve different interests than the existing terrestrial radio system.

■ We also expressed concern about the Commission's process in authorizing terrestrial repeaters. We urged the Commission to refrain from granting these requests until service rules are finalized and the scope and use of terrestrial repeaters can be fully defined.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink that reads "Ann Bobeck". The signature is written in a cursive, slightly slanted style.

Ann Bobeck

cc: Attendees