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September 21, 2001

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Via Hand Delivery**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Ex Parte Notice  
IB Docket No. 95-91**

Dear Ms. Salas:

On September 20, 2001, Carl Frank of Wiley Rein and Fielding LLP representing Sirius Satellite Radio Inc. ("Sirius"), Lon Levin of XM Radio Inc. ("XM"), and Bruce Jacobs and David Konczal of Shaw Pittman LLP representing XM, met with Rosalee Chiara, Rockie Patterson, and Ron Repasi of the International Bureau and Ron Netro of the Wireless Telecommunications Bureau to discuss the above-captioned rulemaking regarding Digital Audio Radio Service ("DARS") terrestrial repeaters. Robert Briskman of Sirius and Paul Marko and Craig Wadin of XM participated in the meeting via telephone.

During the meeting, XM and Sirius discussed proposals for addressing the concerns of WCS licensees regarding potential interference caused by high power DARS repeaters. XM and Sirius discussed the concept that a power level of 2 kW is a "safe harbor" for DARS repeater deployment. XM and Sirius discussed possible ways they could address any interference to WCS base stations that might be caused by high power repeaters outside of such a safe harbor.

XM and Sirius also discussed how their attempts to reach a compromise with the WCS community have been hindered by the lack of information from WCS licensees regarding their specific deployment plans. Without such information, it is impossible for the DARS licensees to determine the extent of any liability for cost-sharing and the extent of any modification of DARS repeater networks that might be appropriate. In contrast, the DARS licensees have now fully disclosed their current nationwide plans for their repeater networks. The existing WCS rules may not require such disclosure from WCS licensees, but it would be fair to impose such a requirement on any WCS licensee that intends to seek compensation from a DARS licensee.

The FCC asked for the DARS licensees' views regarding an "expanding donut" concept, pursuant to which the area of the safe harbor would grow over time, perhaps beginning no later than March 2002 and increasing significantly every few months. Sirius strongly opposed such an approach. This is because the plan would present satellite DARS licensees with the least

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Ms. Magalie Roman Salas  
September 21, 2001  
Page 2

protection, and the most risk, at the inception of their service offerings. Because the risks and costs of possible coordination with WCS remain unquantifiable, any transition that begins with the smallest protected service area could force satellite DARS licensees *ab initio* to reconfigure their repeater networks to operate at no more than 2 kW. Any such reconfiguration would be spectrum-inefficient, as well as enormously expensive and time consuming—delaying DARS service to the public with no commensurate public benefit.

Both XM and Sirius supported requiring WCS licenses to share (with DARS licensees) certain costs of remedying any interference to a WCS base station if that interference occurs within a period of time that might reasonably be required by WCS licensees to deploy equipment that is not susceptible to such interference. Requiring such cost sharing would ensure that WCS licensees have appropriate incentives to deploy spectrum efficient systems.

Finally, in response to a recent request from AT&T Wireless that the Commission issue a further NPRM on DARS repeaters, XM and Sirius explained that there have already been three rounds of comments regarding repeaters in the above-captioned rulemaking, in which the WCS licensees had more than ample opportunity to propose and justify rules. Their failure to have participated in the ongoing rulemaking on a timely basis should not be used by them as an excuse to prolong this proceeding.

Two copies of this notice are being submitted to the Secretary of the FCC in accordance with the Commission's rules.

Very truly yours,



David S. Konczal

cc: Rosalee Chiara  
Ron Netro  
Rockie Patterson  
Ron Repasi  
Carl Frank