Before the

Federal Communications Commission

Washington, DC 20554

In the Matter of	)	
	)	
Establishment of Rules and Policies	)	MB Docket No. 04-160
For the Digital Audio Radio Satellite	)	
Service in the 2310-2360 MHz	)	
Frequency Band	)	
Radio Service Terrestrial Repeaters Network	)	

To: The Secretary
Filed via ECFS

REPLY COMMENTS OF SAGA COMMUNICATIONS, INC.

Saga Communications, Inc. ("Saga"),[1] hereby files its reply comments in the above proceeding. The Commission has requested comment on a petition filed by the National Association of Broadcasters ("NAB") regarding programming carried by satellite digital audio radio services ("SDARS"). See *Public Notice,* DA 04-1096, released April 27, 2004. The Commission solicited comments from the public on the expansion of SDARS into providing locally oriented programming. Comments were due by June 4, 2004, and Reply Comments were due by June 21, 2004. Thus, these comments are timely filed.

[1] Saga Communications, Inc. is a broadcasting company whose business is devoted to acquiring, developing and operating broadcast properties. The company owns or operates broadcast properties in 24 markets, including 49 FM and 27 AM free over the air radio stations.

On April 14, 2004 the NAB filed a Petition for Declaratory Ruling. NAB's Petition requests the Commission to 1) prohibit SDARS from using any technology to permit the delivery of content that would be aired on a receiver in one location that differs from the content that would be aired on a receiver in a different location; and 2) prohibit SDARS providers from providing locally oriented services on nationally distributed channels. Alternatively, NAB requests the Commission to reopen the SDARS licensing proceeding to evaluate the impact of the service on local broadcasting.

The Commission's records reflect that some 25,000 comments have been received, many apparently generated by a publicity campaign orchestrated by the satellite radio companies, XM Radio Inc. ("XM") and Sirius Satellite Radio Inc. ("Sirius"). Saga believes these comments do not reflect reality and ignore the significant public interest contributions made by local broadcasters that will be jeopardized if the Commission continues to ignore the slow encroachment of XM and Sirius into the provision of local radio service.

In granting licenses for satellite radio, the FCC relied on the express promises by XM Sirius that their services would be national-only. For example, they would provide multiple foreign language programming, senior citizens and children's programming, and similar narrow cast offerings, implicitly not available in large quantities on free over the air radio stations. XM and Sirius assured the FCC that because satellite radio would be national, local broadcasters would not be harmed.

However, XM and Sirius have broken their promises, launching "localized" traffic and weather service in the top twenty-one markets. This is only the beginning of a campaign by XM and Sirius to undercut free over the air broadcasting. The Commission cannot ignore what XM and Sirius are doing.

It appears that XM and Sirius view the sky as the limit — with technology to continue to "localize" their services they can make their formats virtually indistinguishable from local radio. Without FCC intervention, two companies, with 120 channels each, will reach into every market and try to mimic what local broadcasters do.

Before XM and Sirius invest millions of dollars in technology, and further raise consumer's expectations about their ability to receive specific content, the FCC must clarify that it authorized a national-only satellite radio service.

Saga's stations provide local news, traffic and weather service to their communities at significant costs. Separately in this docket, the General Managers of some of those stations are providing concrete examples of the local public service they provide.[2] The provision of these kinds of services by free over the air radio stations is threatened by removing all content restrictions from XM and Sirius.

It should be remembered that XM and Sirius don't have public interest limits or ownership limits. They have no local investment in their communities as do Saga's stations. In 2003, according to NAB figures, broadcasters gave $9.6 billion in value to their local communities in terms of local public service. The Commission, in authorizing satellite radio, vowed to protect "vibrant" local broadcasting, and promised to take "any necessary action to safeguard the important service that terrestrial radio provides." The time has come for the FCC to honor that vow.

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[2] Comments are being filed separately on ECFS by the general managers of Saga's local free over the air stations in the following markets: Milwaukee, WI; Columbus, OH; Norfolk, VA; Des Moines, IA; Jonesboro, AR; Keene, NH; Clarksville, TN/Hopkinsville, KY; Portland, ME; Springfield, MA, and Brattleboro, VT.

Saga supports strongly the position taken in the NAB petition.

Respectfully submitted,

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