

**The Satellite Broadcasting and Communications Association's (SBCA)
Position on the NAB Petition Regarding Programming Carried by
Satellite Digital Audio Radio Service Providers.
Docket No. MB 04-160**

The Satellite Broadcasting and Communications Association urges the Commission to dismiss the NAB Petition for the following reasons:

1. The programming offered by Satellite Radio Providers does not violate their license nor any FCC regulation.
2. The programming offered by Satellite Radio Providers serves the public interest by keeping listeners informed and safe.
3. Satellite DARS poses no economic threat to Terrestrial Radio Service.

XM and Sirius transmit *nationwide* meaning that content never varies by location of a receiver. Each channel offers *identical content to all locations*. Satellite DARS are not varying content by the location of their receivers. The traffic and weather alerts provided by XM and Sirius qualify as lawful *ancillary* uses of the satellite DARS band and the FCC acknowledged that ancillary uses of allocated bands are legally permissible when it originally licensed DARS.

The Commission has a duty to “generally encourage the larger and more effective use of radio in the public interest.” The traffic and weather services provided by DARS licensees fit this criteria because they offer more sources of information to more consumers. Satellite DARS was licensed under the presumption that it would provide additional services where terrestrial radio service proved inadequate. DARS licensees are fulfilling this obligation by not only providing traffic and weather to communities with little or no terrestrial delivered services but they are also serving more people in more places, with more programming diversity. They have gone above and beyond what terrestrial broadcast stations accomplished over seven decades.

The Commission is not obligated to provide extraordinary protection to broadcasters at the expense of a new technology. Currently, DARS serves 2 million subscribers, 1% of the total radio audience. Terrestrial radio also has significant advantages over satellite radio. Terrestrial radio stations receive spectrum and music rights free of charge. Satellite DARS licensees spent billions of dollars purchasing spectrum, launching satellites, and licensing music. In addition, terrestrial radio companies provide “free” programming and enjoy increased advertising revenue, in turn; Satellite Radio licensees market an entirely new service carrying a monthly charge. Considering the size disparity, economic health, and favorable cost structure of terrestrial radio, traffic and weather alerts from satellite DARS pose no service economic threat.