

MB 07-57

Approved by OMB
3060-0678

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APPLICATION FOR SATELLITE SPACE AND EARTH STATION AUTHORIZATIONS FOR TRANSFER OF CONTROL OR ASSIGNMENT FCC 312 MAIN FORM FOR OFFICIAL USE ONLY	FCC Use Only
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APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:

Application for Transfer of Control of XM Radio Inc.'s Four Geostationary Space Station Licenses to Sirius Satellite Radio Inc.

1-8. Legal Name of Applicant			
Name:	XM Radio Inc.	Phone Number:	202-380-4000
DBA Name:		Fax Number:	202-380-4500
Street:	1500 Eckington Place, NE	E-Mail:	james.blitz@xmradio.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20002 -
Attention:	James Blitz		

9-16. Name of Contact Representative

Name:	James Barker	Phone Number:	202-637-2200
Company:	Latham & Watkins LLP	Fax Number:	202-637-2201
Street:	555 Eleventh Street, NW Suite 1000	E-Mail:	james.barker@lw.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20004-
Attention:	James Barker	Relationship:	Legal Counsel

CLASSIFICATION OF FILING

17. Choose the button next to the classification that applies to this filing for both questions a. and b. Choose only one for 17a and only one for 17b.

- a1. Earth Station
- a2. Space Station

- (N/A) b1. Application for License of New Station
- (N/A) b2. Application for Registration of New Domestic Receive-Only Station
- (N/A) b3. Amendment to a Pending Application
- (N/A) b4. Modification of License or Registration
- b5. Assignment of License or Registration
- b6. Transfer of Control of License or Registration
- (N/A) b7. Notification of Minor Modification
- (N/A) b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite
- (N/A) b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States
- (N/A) b10. Other (Please specify)

<p>17c. Is a fee submitted with this application?</p> <p><input checked="" type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).</p> <p><input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial educational licensee</p> <p><input type="radio"/> Other (please explain):</p>					
<p>17d.</p> <table> <tr> <td>Fee Classification A BFY – Space Station (Geostationary)</td> <td>Quantity 1 (First Station)</td> </tr> <tr> <td>Fee Classification B BFY – Space Station (Geostationary)</td> <td>Quantity 3 (Each Additional Station)</td> </tr> </table>		Fee Classification A BFY – Space Station (Geostationary)	Quantity 1 (First Station)	Fee Classification B BFY – Space Station (Geostationary)	Quantity 3 (Each Additional Station)
Fee Classification A BFY – Space Station (Geostationary)	Quantity 1 (First Station)				
Fee Classification B BFY – Space Station (Geostationary)	Quantity 3 (Each Additional Station)				
<p>18. If this filing is in reference to an existing station, enter:</p> <p>(a) Call sign of station: Not Applicable</p>	<p>19. If this filing is an amendment to a pending application enter:</p> <table> <tr> <td>(a) Date pending application was filed: Not Applicable</td> <td>(b) File number of pending application: Not Applicable</td> </tr> </table>	(a) Date pending application was filed: Not Applicable	(b) File number of pending application: Not Applicable		
(a) Date pending application was filed: Not Applicable	(b) File number of pending application: Not Applicable				

TYPE OF SERVICE

<p>20. NATURE OF SERVICE: This filing is for an authorization to provide or use the following type(s) of service(s): Select all that apply:</p> <p><input type="checkbox"/> a. Fixed Satellite</p> <p><input type="checkbox"/> b. Mobile Satellite</p> <p><input type="checkbox"/> c. Radiodetermination Satellite</p> <p><input type="checkbox"/> d. Earth Exploration Satellite</p> <p><input type="checkbox"/> e. Direct to Home Fixed Satellite</p> <p><input checked="" type="checkbox"/> f. Digital Audio Radio Service</p> <p><input type="checkbox"/> g. Other (please specify)</p>	
<p>21. STATUS: Choose the button next to the applicable status. Choose only one.</p> <p><input type="radio"/> Common Carrier <input checked="" type="radio"/> Non-Common Carrier</p>	<p>22. If earth station applicant, check all that apply.</p> <p><input type="checkbox"/> Using U.S. licensed satellites</p> <p><input type="checkbox"/> Using Non-U.S. licensed satellites</p>
<p>23. If applicant is providing INTERNATIONAL COMMON CARRIER service, see instructions regarding Sec. 214 filings. Choose one. Are these facilities:</p> <p><input type="radio"/> Connected to a Public Switched Network <input type="radio"/> Not connected to a Public Switched Network <input checked="" type="radio"/> N/A</p>	
<p>24. FREQUENCY BAND(S): Place an "X" in the box(es) next to all applicable frequency band(s).</p> <p><input type="checkbox"/> a. C-Band (4/6 GHz) <input type="checkbox"/> b. Ku-Band (12/14 GHz)</p> <p><input checked="" type="checkbox"/> c. Other (Please specify upper and lower frequencies in MHz.)</p> <p>Frequency Lower: 2332.5 Frequency Upper: 2345</p>	

TYPE OF STATION

25. CLASS OF STATION: Choose the button next to the class of station that applies. Choose only one.

- a. Fixed Earth Station
- b. Temporary-Fixed Earth Station
- c. 12/14 GHz VSAT Network
- d. Mobile Earth Station
- e. Geostationary Space Station
- f. Non-Geostationary Space Station
- g. Other (please specify)

26. TYPE OF EARTH STATION FACILITY: Choose only one.

- Transmit/Receive
- Transmit-Only
- Receive-Only
- N/A

PURPOSE OF MODIFICATION

27. The purpose of this proposed modification is to: (Place an "X" in the box(es) next to all that apply.)

Not Applicable

ENVIRONMENTAL POLICY

28. Would a Commission grant of any proposal in this application or amendment have a significant environmental impact as defined by 47 CFR 1.1307? If YES, submit the statement as required by Sections 1.1308 and 1.1311 of the Commission's rules, 47 C.F.R. 1.1308 and 1.1311, as an exhibit to this application. A Radiation Hazard Study must accompany all applications for new transmitting facilities, major modifications, or major amendments. Yes No

ALIEN OWNERSHIP Earth station applicants not proposing to provide broadcast, common carrier, aeronautical en route or aeronautical fixed radio station services are not required to respond to Items 30-34.

29. Is the applicant a foreign government or the representative of any foreign government?	<input type="radio"/> Yes <input checked="" type="radio"/> No
30. Is the applicant an alien or the representative of an alien?	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A
31. Is the applicant a corporation organized under the laws of any foreign government?	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A
32. Is the applicant a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A

33. Is the applicant a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?

Yes No
 N/A

34. If any answer to questions 29, 30, 31, 32 and/or 33 is Yes, attach as an exhibit an identification of the aliens or foreign entities, their nationality, their relationship to the applicant, and the percentage of stock they own or vote.

BASIC QUALIFICATIONS

35. Does the Applicant request any waivers or exemptions from any of the Commission's Rules?
If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.

Yes No

36. Has the applicant or any party to this application or amendment had any FCC station authorization or license revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission? If Yes, attach as an exhibit, an explanation of circumstances.

Yes No

37. Has the applicant, or any party to this application or amendment, or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court? If Yes, attach as an exhibit, an explanation of circumstances.

Yes No

38. Has any court finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition? If Yes, attach as an exhibit, an explanation of circumstances Yes No

39. Is the applicant, or any person directly or indirectly controlling the applicant, currently a party in any pending matter referred to in the preceding two items? If yes, attach as an exhibit, an explanation of the circumstances. Yes No

40. If the applicant is a corporation and is applying for a space station license, attach as an exhibit the names, address, and citizenship of those stockholders owning a record and/or voting 10 percent or more of the Filer's voting stock and the percentages so held. In the case of fiduciary control, indicate the beneficiary(ies) or class of beneficiaries. Also list the names and addresses of the officers and directors of the Filer. Exhibit E

41. By checking Yes, the undersigned certifies, that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes. Yes No

42a. Does the applicant intend to use a non-U.S. licensed satellite to provide service in the United States? If Yes, answer 42b and attach an exhibit providing the information specified in 47 C.F.R. 25.137, as appropriate. If No, proceed to question 43. Yes No

42b. What administration has licensed or is in the process of licensing the space station? If no license will be issued, what administration has coordinated or is in the process of coordinating the space station?

43. Description. (Summarize the nature of the application and the services to be provided).

(If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.)

This application for the transfer of control of four geostationary space station licenses is one of several applications being filed simultaneously with respect to the proposed merger of Sirius Satellite Radio Inc. and XM Satellite Radio Holdings Inc.

Exhibit C

CERTIFICATION

The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. The applicant certifies that grant of this application would not cause the applicant to be in violation of the spectrum aggregation limit in 47 CFR Part 20. All statements made in exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that all statements made in this application and in all attached exhibits are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.

44. Applicant is a (an): (Choose the button next to applicable response.)

- Individual
- Unincorporated Association
- Partnership
- Corporation
- Governmental Entity
- Other (please specify)

45. Name of Person Signing
James Blitz

46. Title of Person Signing
Vice President, Regulatory Counsel

47. Please supply any need attachments.

Attachment 1:

Attachment 2:

Attachment 3:

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT
(U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION
(U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).**

SATELLITE EARTH STATION AUTHORIZATIONS
FCC Form 312 – Schedule A
FOR OFFICIAL USE ONLY

Select one of the following

CONSENT TO TRANSFER OF CONTROL
 CONSENT TO ASSIGNMENT OF LICENSE

NOTIFICATION OF TRANSFER OF CONTROL OF RECEIVE ONLY REGISTRATION
 NOTIFICATION OF ASSIGNMENT OF RECEIVE ONLY REGISTRATION

A1. Name of Licensee (as shown on FCC 312 – Main Form)

Name:	XM Radio Inc.	Phone Number:	202-380-4000
DBA Name:		Fax Number:	202-380-4500
Street:	1500 Eckington Place, NE	E-Mail:	james.blitz@xmradio.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20002 -
Attention:	James Blitz		

A8. List Callsign(s) of station(s) being assigned or transferred

Callsign: S2617	Callsign: S2616	Callsign: S2119	Callsign: S2118	Callsign:	Callsign:	Callsign:	Callsign:
------------------------	------------------------	------------------------	------------------------	------------------	------------------	------------------	------------------

A9. No. of station(s) listed

4

A10. Name of Transferor/ Assignor

Name:	XM Satellite Radio Holdings Inc.	Phone Number:	202-380-4000
Company:		Fax Number:	202-380-4500
Street:	1500 Eckington Place, NE	E-Mail:	james.blitz@xmradio.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20002 -
Attention:	James Blitz	Relationship:	

A15. Name of Transferee/ Assignee

Name:	Sirius Satellite Radio Inc.	Phone Number:	212-584-5100
DBA Name:		Fax Number:	212-584-5353
Street:	1221 Avenue of the Americas 36th Floor	E-Mail:	pdonnelly@siriusradio.com
City:	New York	State:	NY
Country:	USA	Zipcode:	10020 -
Attention:	Patrick L. Donnelly		

A20. If these facilities are licensed, is the transferee / assignee directly or indirectly controlled by any other entity? If yes, attach as Exhibit E, a statement (including organizational diagrams where appropriate) which fully and completely identifies the nature and extent of control including: (1) the name, address, citizenship, and primary business of the controlling entity and any intermediate subsidiaries or parties, and (2) the names, addresses, citizenship, and the percentages of voting and equity stock of those stockholders holding 10 percent or more of the controlling corporation's voting stock.

- Yes
 No
 N/A

A21. If these facilities are licensed, attach as Exhibit F, a complete statement setting forth the facts which show how the assignment or transfer will serve the public interest.

CERTIFICATION

1. The undersigned, individually and for licensee, certifies that all attached exhibits pertain to Schedule A and all statements made in Schedule A of this application are true, complete and correct to the best of his/her knowledge and belief. The undersigned also certifies that any contracts or other instruments submitted herewith are complete and constitute the full agreement.
 2. The undersigned represents that stock will not be delivered and that control will not be transferred until the Commission's consent has been received, but that transfer of control or assignment of license will be completed within 60 days of Commission consent. The undersigned also acknowledges that the Commission must be notified by letter within 30 days of consummation.

A22. Printed Name of Licensee (Must agree with A1) XM Radio Inc.	A24. Title (Office Held by Person Signing) James Blitz, Vice President, Regulatory Counsel
A26. Printed Name of License Transferor / Assignor (Must agree with A10) XM Satellite Radio Holdings Inc.	A28. Title (Office Held by Person Signing) James Blitz, Vice President, Regulatory Counsel
A26. Printed Name of License Transferee / Assignee (Must agree with A15) Sirius Satellite Radio Inc.	A28. Title (Office Held by Person Signing) Patrick L. Donnelly, Exec. VP, GC & Sec'y

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

In the Matter of)	
)	
XM Satellite Radio Holdings Inc.,)	File Nos. _____
<i>Transferor</i>)	
)	
and)	Docket No. _____
)	
Sirius Satellite Radio Inc.,)	
<i>Transferee</i>)	
)	
Consolidated Application for Authority to)	
Transfer Control of XM Radio Inc. and Sirius)	
Satellite Radio Inc.)	

CONSOLIDATED APPLICATION FOR AUTHORITY TO TRANSFER CONTROL

Patrick L. Donnelly
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and Secretary
Sirius Satellite Radio Inc.
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36th Floor
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Executive Vice President, Business and
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Attorneys for Sirius Satellite Radio Inc.

Attorneys for XM Satellite Radio Holdings Inc.

March 20, 2007

EXECUTIVE SUMMARY

Sirius Satellite Radio Inc. (“Sirius”) and XM Satellite Radio Holdings Inc. (“XM,” and with Sirius, the “Applicants”), pursuant to Section 310(d) of the Communications Act of 1934, request Commission consent to the transfer of control of the FCC licenses held by Sirius, XM, and their subsidiaries. The Applicants have entered into a merger agreement under which a wholly owned subsidiary of Sirius, Vernon Merger Corporation, will be merged with and into XM, with XM being the surviving entity of this subsidiary merger. The combined company will be controlled by a new Board of Directors, selected by both Sirius and XM, and its equity ownership will be represented equally by former shareholders of XM and Sirius prior to the merger.

Sirius and XM are established audio entertainment providers. Both companies obtained satellite radio licenses in 1997 following an auction in which the companies collectively paid more than \$170 million to the U.S. Treasury; their qualifications to hold those licenses are a matter of public record and have been reviewed and endorsed in prior proceedings. Today, Sirius operates three satellites in non-geostationary orbit and serves over 6 million subscribers. XM currently operates four geostationary orbit satellites and serves over 7.6 million subscribers. These subscribers’ satellite radios may be installed in homes, automobiles, boats, and aircraft, or may be carried as portable radios. Together, the companies offer approximately 300 channels of music, sports, news, talk, entertainment, traffic and weather, emergency, and informational data services. Each company also provides content to subscribers using streaming audio over the Internet as well as direct broadcast satellite (“DBS”) and wireless networks.

The proposed merger of Sirius and XM will generate substantial, merger-specific public interest benefits. The efficiencies resulting from the merger will allow the combined company to

provide consumers programming choices on a more à la carte basis at lower prices. After the merger, customers may elect to receive fewer channels at a monthly price lower than \$12.95; substantially similar programming at the existing \$12.95 price; or more channels, including some of the “best of both” networks, at a modest premium to the cost of one service, and considerably less than the cost of subscribing to both services. Consumers will also be able to block adult-themed channels and receive a price credit for those channels. Subscribers could continue to use their existing radios or eventually purchase new radios capable of receiving all of the content of both services when they become available.

In addition, in the long-term, the merger of Sirius and XM will help increase programming diversity. Sirius and XM already broadcast a wide range of commercial-free music channels; exclusive and non-exclusive sports coverage; news, talk, entertainment, and religious programming; channels in Spanish, Korean, and French; as well as weather and traffic channels for many cities. In the long run, the combined company will be able to consolidate redundant programming, making it possible to use excess channel capacity to enhance programming diversity, including additional programming related to public safety and homeland security, and programming aimed at minority and underserved communities. The merger also will help accelerate deployment of advanced technology, including improvements in products such as real-time traffic and rear-seat video and development of a next-generation satellite system.

In an audio entertainment market already brimming with choices and value for consumers, the merger of Sirius and XM would enhance the public interest by providing more of both with no adverse effect on competition. Satellite radio is a small part of a highly competitive and ever-expanding market for audio entertainment. Indeed, although satellite radio has proven

to be an appealing and popular new product, the current 14 million subscribers pales in comparison to terrestrial radio's approximate 230 million weekly listeners. As the National Association of Broadcasters ("NAB") explained to the Commission just two months ago, "there can be no reasonable doubt that the current media marketplace is robustly competitive, and indeed exploding at the seams with consumer choices for both delivery mechanisms and content."¹ Consumers seeking audio entertainment today pick and choose among a range of options that, despite some differentiation, provide consumers with similar content and features. As many parties have described to the Commission previously, consumers obtain audio entertainment using free "over-the-air" AM and FM radio, HD Radio, Internet radio, iPods and other MP3 players, cable providers' music offerings, mobile phones, and CD players, as well as satellite radio. The providers of these services—including terrestrial radio, which is by far the most dominant of the group—have conceded on multiple occasions that they compete directly with each other for consumers' attention.

Thus, the merger will not harm competition in any market, because a combined satellite radio provider will have no market power, let alone be able to dominate the market. Indeed, a recent Arbitron study found that satellite radio accounted for *just 3.4 percent of all radio listening*. In order to build on this modest foundation, the combined company will need to compete with providers offering services that can be easily substituted for satellite radio, and that consumers will potentially find even more appealing. In fact, many of these providers already are expanding their capabilities so their services more closely resemble the functionality provided by satellite radio. Accordingly, given the abundance of audio entertainment (much of it

¹ 2006 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Reply Comments of the National Association of Broadcasters, MB Docket No. 06-121, at 34 (filed Jan. 16, 2007).

free of charge and available on ubiquitous receivers), the combined company will need to ensure that both its service and pricing remain competitive by *creating* benefits for consumers rather than taking them away (particularly because the combined company's service will require a paid subscription)—a result that is decidedly pro-competitive. Meanwhile, barriers to entry into this already dynamic market will remain low notwithstanding the proposed transaction, as demonstrated by the development of wireless networks and the availability of other spectrum bands. The viability of market entry by new entities will protect the ability of consumers to access audio entertainment—and that of programmers to distribute it—through a variety of competitive means.

For the above reasons, the proposed merger is clearly in the public interest, and the Applicants request that the FCC expeditiously grant the Application.

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

In the Matter of)	
)	
XM Satellite Radio Holdings Inc.,)	File Nos. _____
<i>Transferor</i>)	
)	
and)	Docket No. _____
)	
Sirius Satellite Radio Inc.,)	
<i>Transferee</i>)	
)	
Consolidated Application for Authority to)	
Transfer Control of XM Radio Inc. and Sirius)	
Satellite Radio Inc.)	

CONSOLIDATED APPLICATION FOR AUTHORITY TO TRANSFER CONTROL

Sirius Satellite Radio Inc. (“Sirius”) and XM Satellite Radio Holdings Inc. (“XM,” and with Sirius, the “Applicants”), pursuant to Section 310(d) of the Communications Act of 1934, as amended (the “Communications Act” or the “Act”),¹ and Sections 1.948 and 25.119 of the Federal Communications Commission’s (the “FCC’s” or the “Commission’s”) rules,² respectfully submit this joint application (“Application”) for Commission consent to transfer control of licenses held by Sirius and XM or their subsidiaries. The Applicants have entered into an Agreement and Plan of Merger (the “Merger Agreement”) under which a wholly owned subsidiary of Sirius, Vernon Merger Corporation, will be merged with and into XM, with XM being the surviving entity of this subsidiary merger. In addition, the combined company will be

¹ 47 U.S.C. § 310(d).

² 47 C.F.R. §§ 1.948, 25.119.

controlled by a new Board of Directors, selected by both Sirius and XM, and its equity ownership will be represented equally by former shareholders of XM and Sirius prior to the merger.

As detailed herein, the public interest will be served by the proposed merger. The merger of Sirius and XM will allow the combined company to offer customers more programming choices at lower prices and will result in significant efficiencies. Together, the Applicants will be better able to serve consumers in the ever-evolving and highly competitive audio entertainment market. Moreover, the merger will not harm competition in any market, because a combined satellite radio provider will have no market power and will need to continue to innovate and enhance its offerings to ensure that its service remains appealing to consumers. Accordingly, the Application should be granted.

I. INTRODUCTION

A. The Applicants³

1. Sirius Satellite Radio Inc.

Sirius, a publicly traded Delaware corporation, is an established audio entertainment provider. In April 1997, Sirius paid more than \$83 million to the U.S. Treasury at auction for rights to provide satellite radio in the 2320-2332.5 MHz band,⁴ and the Commission authorized a Sirius subsidiary to construct, launch, and operate two geostationary satellites located at 80° and 110° W.L.⁵ The FCC later modified the license to permit operation of three non-geostationary

³ This section is responsive to Questions 40 and A.20 on FCC Form 312 and Schedule A thereto.

⁴ *FCC Announces Auction Winners for Digital Audio Radio Service*, Public Notice, 12 FCC Rcd 18,727 (1997) (“*Satellite Radio Auction Public Notice*”).

⁵ *Satellite CD Radio Inc., Application for Authority to Construct, Launch, and Operate Two Satellites in the Satellite Digital Audio Radio Service*, Order and Authorization, 13 FCC

satellites.⁶ In addition to this satellite radio authorization (including the related terrestrial repeater special temporary authorizations), Sirius holds related earth station and wireless licenses.

Sirius began providing service in February 2002. As of December 31, 2006, Sirius had approximately 6 million subscribers in the United States. Sirius offers over 130 channels to its subscribers, including 69 channels of commercial-free music programming, such as pop, rock, electronic, hip hop, R&B, country, Christian, blues, jazz, classical, Latin, big band, and showtunes; 54 channels of sports, news, talk, and entertainment programming that includes coverage of the National Football League, National Basketball Association, and NASCAR, as well as other professional and college sports nationwide; 11 channels of traffic and weather in several large U.S. metropolitan areas; one channel dedicated to emergency information and the transmission of emergency alerts on a nationwide basis; and informational data services. Sirius also provides streaming audio content to subscribers via the Internet and music channels to certain DISH satellite television subscribers and Sprint subscribers. Sirius radios are available for installation in homes, automobiles, boats, and aircraft, and Sirius also has a variety of portable radios.

Sirius has invested over five billion dollars to date, primarily to (1) develop and upgrade its network; (2) design chipsets and radios capable of receiving its service; (3) subsidize the cost of such chipsets and radios to encourage their distribution; (4) develop subscriber-based management systems and other information technology; (5) market its brand; and (6) create

(Continued . . .)

Rcd 7971 (1997) ("*Sirius Authorization Order*").

⁶ *Sirius Satellite Radio Inc. for Minor Modification of License to Construct, Launch and Operate a Non-Geostationary Satellite Digital Audio Radio Service System, Order and Authorization*, 16 FCC Rcd 5419 (2001).

compelling programming for subscribers. Currently, Sirius operates three non-geostationary satellites and a network of complementary terrestrial repeaters⁷ covering the contiguous United States.⁸ Sirius controls and communicates with its satellites from its uplink facility in New Jersey and through its earth stations in Panama and Ecuador. Sirius continues to monitor its infrastructure, regularly evaluating and implementing improvements in technology. Sirius has entered into an agreement with Space Systems/Loral, Inc. to design and construct a new geostationary satellite that will complement its existing in-orbit satellites. When launched, the resulting constellation configuration is expected to provide enhanced coverage and performance.

2. **XM Satellite Radio Holdings Inc.**

XM, a publicly traded Delaware corporation, is an established provider of audio entertainment. In April 1997, XM was one of the winning bidders in the Commission's auction of 25 MHz of spectrum in the S-band allocated to satellite radio, in which XM committed and paid nearly \$90 million to the U.S. Treasury.⁹ The Commission awarded XM the license to provide satellite radio services in the 2332.5-2345 MHz band.¹⁰ XM's wholly owned subsidiary XM Radio Inc., a Delaware corporation, now holds XM's satellite radio licenses (including related terrestrial repeater special temporary authorizations) as well as satellite, earth station, and experimental licenses issued by the Commission.

⁷ Sirius has deployed terrestrial repeaters in areas where its signal may be blocked such as urban centers with high concentrations of tall buildings and tunnels.

⁸ Sirius also has a fourth spare satellite in ground storage that can be deployed in the event of a satellite failure.

⁹ *Satellite Radio Auction Public Notice*, 12 FCC Rcd at 18,717.

¹⁰ *See Am. Mobile Radio Corp., Application for Authority to Construct, Launch, and Operate Two Satellites in the Satellite Digital Audio Radio Service*, Order and Authorization, 13 FCC Rcd 8829, 8850 (¶ 51) (1997) ("*XM Authorization Order*").