

To: Members of U.S. Congress & the FCC

To the members of Congress, the FCC, and other governmental units being heavily lobbied by the NAB and their for-hire cronies against the Sirius-XM satellite radio merger:

We implore you to look past the self-serving interests of the NAB, which desperately wants to avoid the increased competition this merger brings against their members. Instead we respectfully request you focus on what is best for, and desired by, the consumer – merged satellite programming to compete with the deep-pocketed terrestrial rivals.

For many potential customers of satellite radio, the cost of satellite radio is presently prohibitive due to the requirement of purchasing both competing services to receive complementary programming. Examples: XM – MLB, Sirius – NFL; XM – Oprah Winfrey, Sirius – Martha Stewart and the list goes on extensively (visit <http://www.radiosatellite.org/>). For this reason if no other, the merger is beneficial to consumers.

A combined Sirius and XM would not, under any definition, be a monopoly. Satellite radio is primarily a consumer-driven, paid-subscription alternative to free radio across the nation. The fact that well above ten million consumers have elected to pay for satellite radio when terrestrial radio remains free and readily accessible nationwide speaks volumes about what consumers want – unfortunately for the NAB and its members, consumers have tired of the pervasive, bland content provided on thousands of radio stations, for free, nationwide.

(Contrary to the propaganda put forth by the NAB, the merger of Sirius and XM is not directly comparable to the failed merger in the satellite video business – many customers in rural areas do not have access to cable television; for the sake of those customers, that failed merger was construed as an attempt at a monopoly. The only parallel is the use of satellites.)

We are not impressed by the vaunted “ping-pong” chart from the NAB-bought Carmel group (i.e. the chart that proclaims Sirius put up a geostationary satellite in a direct, but 5-year belated, response to XM having done so). It is difficult to assume Sirius hired Howard Stern as a result of XM hiring Opie & Anthony, as Carmel suggests – it is much more plausible to assume Sirius hired Howard Stern because they wanted to compete with terrestrial radio and woo the millions of terrestrial radio subscribers that followed his programming. We are also not impressed with the NAB paying anyone who will accept their money to lobby against this merger (including John Ashcroft) in an effort to deceive the public.

Carmel’s report significantly downplays the mp3 player (the Apple Ipod, etc) as an alternative to programming in vehicles. Whether simply ignorant or intentionally deceptive, it’s incorrect to state that

this is not an alternative. The rapid growth in the mp3 player market has lessened the dependence of millions on watered-down, sound-alike terrestrial radio programming – much more so than satellite radio has. And as the mp3 player has become a more direct challenge to terrestrial radio than satellite radio, clearly, it is a challenge to satellite radio also.

To our influential members of government, please do not bow to pressure from lobbyists who want customers to adjust their listening tastes to the NAB member's products. Tell them they must accept the increased competition and let them spend their money on tailoring their products to match the consumer's desires instead.

Sincerely,

David Palmisano