

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**MEDIA BUREAU ACTION**

**SIRIUS SATELLITE RADIO INC. AND XM SATELLITE RADIO HOLDINGS INC. SEEK  
APPROVAL TO TRANSFER CONTROL OF FCC AUTHORIZATIONS AND LICENSES**

**MB Docket No. 07-57**

**Comments of  
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## Summary

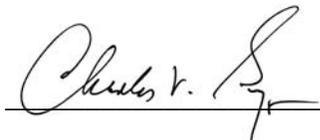
The American consumer has many news and entertainment alternatives available for consumption, including satellite radio. Because satellite radio is one of many modern alternatives available to the consumer, the Federal Communications Commission (FCC) should amend its rules and approve the merger of XM Satellite Radio and SIRIUS Satellite Radio. Spectrum should be reclaimed from the consolidated XM-SIRIUS through a Plan protecting consumers and eventually reassigned for future public safety and homeland security purposes.

## Filing

1. The filer is a citizen of the United States and resident of the Commonwealth of Virginia.
2. The filer is a customer of both XM Satellite Radio (XM) and SIRIUS Satellite Radio (SIRIUS).
3. The filer is not employed by any party to this Docket. These comments are offered solely by an interested citizen acting without request from either XM or SIRIUS.
4. As a businessperson who must travel in automobiles frequently, satellite radio is more than a convenience. Satellite radio provides a predictable and reliable source of news, weather, information, and entertainment. For the traveler, satellite radio represents one of many enhancements obviating the need to “surf” the radio dial for static-filled news on AM or FM stations fading in and out of a receiver’s range.
5. Satellite radio needs to be one of many strong alternatives for consumers. This technology provides diversity in programming ranging from specialty programming that cannot be offered over a local AM or FM radio station to satellite re-transmission of important news and financial services such as CNN, FOX, CNBC, and others.
6. While not the only audio enhancement for travelers, satellite radio represents an important product that must survive from both a regulatory as well as financial perspective. Neither XM nor SIRIUS operates profitably and without a change in structure, it is unlikely that either service will become profitable in the reasonably near future. Without profitability, it is difficult for XM and SIRIUS to meet the entertainment requirements that make the service competitive with other technologies, such as the new Apple IPOD® telephone, and invest in the industry-specific enhancements needed to maintain financial growth and customer support.
7. One of the issues before the FCC relates to a perceived lack of competition in the selection of satellite radio services. Satellite is one of several competing alternatives from which the consumer can select. In my business vehicle, I have the option to select SIRIUS, AM radio, FM radio, Compact Disc, Weather, or IPOD. Through wireless broadband in many areas, Internet audio services can be obtained. Mobile broadband even permits me to watch television services over my cell phone when appropriate. Bluetooth® technology also permits my cell phone to be amplified by the car’s audio

system. A narrow view of competition as defined solely by considering competing satellite radio services fails to acknowledge the plethora of news and entertainment options available for the consumer. These options will grow even faster when traditional AM and FM broadcasters adopt digital technologies en masse providing consumers with additional choices.

8. The filer recognizes that the FCC's current rules preclude a consolidation of XM and SIRIUS. However, the filer suggests that since the establishment of the rules prohibiting consolidation, the face of technology has changed sufficiently to overcome the anti-competitiveness that might have existed in the 1990s when the rules pertaining to satellite radio were adopted. Life and technology in 2007 have changed sufficiently as to merit a revision of the FCC's rules permitting the consolidation of XM and SIRIUS.
9. The satellite industry has faced changes similar to those requiring the FCC to re-examine its rules found in 47 C.F.R. §90 Subpart R as related to wireless wideband and broadband mobile data for public safety. The findings of the FCC in the Further Notice of Proposed Rule Making (FNPRM) issued on April 25, 2007 related to Docket WT 96-86 represent a major departure from the rules adopted by the FCC in the 1990s. The issues affecting the FNPRM, published following the 9<sup>th</sup> NPRM to Docket WT 96-86, serve as a good parallel to the issues faced by both XM and SIRIUS. Both 700 MHz wireless data for public safety and satellite radio technologies have been transformed and enhanced since the date of original adoption in the 1990s. Just like the FCC is on the cusp of dramatically changing the rules affecting the entire 700 MHz band due to technological changes unforeseen in the 1990s, the satellite industry has also been similarly impacted by changes in the news, information, and entertainment industry and the FCC should change the rules prohibiting a merger between XM and SIRIUS.
10. With respect to the spectrum currently assigned to XM and SIRIUS, the FCC should adopt a plan that eventually reclaims sufficient spectrum from a consolidated XM-SIRIUS to be used by a future satellite-based radio service. This reclamation of spectrum should be structured to permit the owners of existing XM and SIRIUS receivers to migrate to a singular set of frequencies populated by the consolidated XM-SIRIUS.
11. Reclaimed spectrum should be used for public safety and homeland security first responders operating in rural areas of the United States where first responders cover sparsely populated, yet significant land areas and the construction of traditional land mobile radio technologies is not be cost-effective.



Charles V. B.