

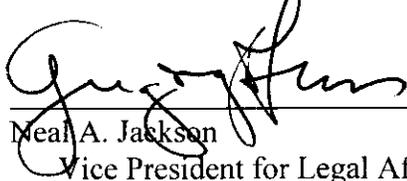
comment, much in the way the Commission has required monopoly telecommunications providers to submit proposed tariffs. Only through careful and rigorous Commission and public scrutiny can there be any hope that a monopoly SDARS provider will actually serve the public interest, convenience, and necessity.

Conclusion

For the foregoing reasons, NPR respectfully requests that the Commission deny the Consolidated Application. If, nonetheless, the Commission were to approve the proposed merger, it should only do so with sufficient conditions to countermand the likely harm an SDARS monopoly is likely to cause.

Respectfully submitted,

NATIONAL PUBLIC RADIO, INC.



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July 9, 2007

⁷⁷ See 47 U.S.C. § 201.

Declaration of Ken Stern

1. My name is Ken Stern. I am Chief Executive Officer of NPR, a position I have held since October 1, 2006. In this position, I direct all management, business and strategic aspects of NPR. I joined NPR in November 1999 as Executive Vice President and, since then, I have played a key role in NPR's dramatic audience growth and its expansion in journalism, programming and new media.

2. Established in February 1970, NPR is an internationally acclaimed producer and distributor of noncommercial news, talk, and entertainment programming, including *All Things Considered*, *Morning Edition*, and *Talk Of The Nation*. A privately supported, not-for-profit membership organization, NPR serves more than 800 independently operated, noncommercial public radio stations – in all 50 states and the District of Columbia – that are operated under licenses issued by the Federal Communications Commission. Since its founding, NPR has been honored with hundreds of awards for its coverage of world events, including 39 George Foster Peabody Awards and 18 Alfred I. duPont-Columbia University Awards, two of the most prestigious in broadcasting.

3. NPR's member stations are, themselves, both producers of noncommercial educational programming and suppliers of programming to the SDARS market. For instance, the Trustees of Boston University, licensee of WBUR(FM) is an NPR Member licensee. NPR has acquired the WBUR-produced programs *On Point* and *Only a Game* for distribution to noncommercial educational ("NCE") radio stations for over-the-air broadcast. WBUR produces and distributes the program *Here and Now* through Public Radio International to NCE radio stations for over-the-air broadcast. WBUR distributes all three programs to XM as part of its SDARS service.

Among the numerous other public radio producing stations distributing programming through one of the SDARS platforms are WHYY, WAMU, WNYC, KQED, and WBEZ.

4. Public radio is fundamentally a system of locally licensed, locally governed, locally staffed, and locally programmed stations. This inherent localism is attributable to the influence of community advisory boards, open public meetings, and other social and institutional forces. Public radio stations are also dependent on voluntary financial contributions from listeners. As a result, public radio stations continue to thrive due to their deep roots in and ongoing engagement with their communities of service.

5. Public radio stations serve their communities through local news and public affairs programming, music, support for local arts, culture and non-profit organizations, online and other non-broadcast initiatives, and services specifically targeted to underserved audiences, including the print-impaired and minority listeners. NPR reinforces stations' fundamental commitment to localism through training, program support, and programming.

6. NPR programs 2 channels on the Sirius SDARS platform. Reducing the number of SDARS providers from 2 to 1 is likely to adversely affect the ability of program producers, including NPR and its Member station licensees, to distribute programming to the SDARS market.

7. One way for this to happen would be if, after the merger, the Applicants decided to capitalize on their stated desire to eliminate redundancy and genre overlap by reducing the total amount of public radio programming currently offered on the merged SDARS platform. Sirius currently offers 2 channels of NPR programming on its service; XM offers 1 channel containing programming from a variety of public radio producers. If the combined entity decided to offer a total of 1 or 2, rather than 3, "public radio" channels, NPR would face increased competition to

secure space on the platform and, therefore, reduced bargaining power to secure favorable terms for SDARS distribution of its programming. A monopoly provider of SDARS service would have a clear economic incentive and market opportunity to offer less compensation for NPR's SDARS programming. Reduced license fees would challenge NPR's ability to produce programming consistent with its high standards. Other public radio producers could lose access altogether.

8. Reducing the number of SDARS providers from 2 to 1 would also undermine our ability to find SDARS distribution for exclusive NPR-branded program channels. Until now, NPR has been able to develop programming for a new distribution platform in a way that clearly establishes NPR's SDARS identity. Sirius obtained a competitive advantage over its competitor, XM, as the exclusive SDARS source of NPR programming. If NPR were to become part of a mix of program producers on a "public radio" channel, the value of the distribution channel to NPR would be diminished.

9. NPR has viewed the SDARS platform as a different product market with a different audience. As such, it provides, an opportunity to reach additional listeners. The NPR Board of Directors endorsed this strategy of developing new services for satellite radio. NPR has not licensed its signature news magazines, *Morning Edition* and *All Things Considered*, for SDARS distribution. Significantly, the news magazines are produced in segments and with detailed program "clocks" so that individual stations can "localize" each day's program through the insertion of local news, traffic, weather, and other programming matter. SDARS is a purely national program platform. Certain NPR programming on the Sirius SDARS platform, such as *Tell Me More* and *News & Notes*, are aimed for a more ethnically diverse audience and are not available in many public radio broadcast markets. NPR is currently developing new morning

news/talk programming for a younger audience, and SDARS distribution will be an important means of reaching that audience.

10. The SDARS platform has enabled NPR to program 24-hour streams of programming in ways that it believes best serve the SDARS audience. In producing, acquiring and distributing programming for over-the-air broadcast by NCE stations, it is the stations themselves that determine what to broadcast, and programming decisions vary from station-to-station.

11. NPR has been a pioneer in the development of HD Radio and, in particular, multicasting. We have great hopes that the evolution of HD Radio will bring a tremendous increase in the quality and quantity of services terrestrial radio stations provide to the public. That future will take some time to realize, however. Terrestrial radio stations are only beginning to deploy and explore the technology. HD Radio receivers are only now being produced in volume, and they are almost completely absent from motor vehicles, where substantial listening occurs.

12. The convergence of technology may eventually produce an audio entertainment market that subsumes the SDARS market, but NPR views the SDARS market as a distinct product market and the potential reduction of SDARS providers from 2 to 1 as a threat to program producers and the public.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed: Washington, D.C.
July 6, 2007



Ken Stern

CERTIFICATE OF SERVICE

I, Gregory A. Lewis, hereby certify that a copy of the foregoing "Petition to Deny of National Public Radio, Inc." was delivered this 9th day of July, 2007, to the following in the manner indicated:

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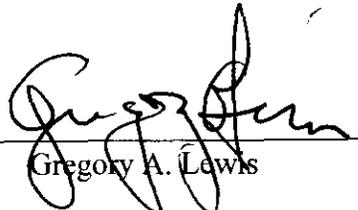
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