



August 28, 2007

The Honorable Thomas Barnett
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
Robert F. Kennedy Building
950 Constitution Avenue, NW
Washington, DC 20520

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*Denotes Regional Chair

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20445

Dear Assistant Attorney General Barnett and Chairman Martin:

The United States Hispanic Chamber of Commerce, the largest national advocate for over 2 million Hispanic-owned businesses nationwide, is writing to express our objection to the proposed merger of XM Satellite Radio and Sirius Satellite that is currently under review by the Department of Justice ("DOJ") and the Federal Communications Commission ("FCC"). In particular, we are concerned about the negative impact that the merger will have on Hispanic business owners and Hispanic listeners.

The USHCC is the nation's largest and most influential advocate for the more than two million Hispanic-owned businesses in the United States, Puerto Rico, Mexico, and Canada. It serves as the umbrella organization for more than 200 local Hispanic chambers, business organizations and trade associations in North America and Mexico by actively promoting the economic growth and development of Hispanic business leaders and entrepreneurs and reaching Hispanic communities in every market across the country.

Hispanic-owned businesses in every congressional district in United States play an increasingly vital role in our nation's economy and are leading economic growth in all sectors of the American economy. There are over 2 million Hispanic-owned businesses in the U.S. that generate more than \$350 in annual gross receipts. By 2010 one in ten small businesses – the engines that fuel the U.S. economy – will be owned by Hispanic entrepreneurs. The number of Latino businesses has grown at a rate that is nearly three times that of the national average, while Latina entrepreneurs start businesses at a rate that is fully six times that of the national average. These statistics indicate that Hispanic small businesses are vital to the mainstream U.S. economy.

Allowing XM and Sirius to merge could have an expensive and negative affect on the Hispanic business community. A merged entity will be able to charge predatory advertising rates, and offset the lost revenue with higher subscription rates for its national, mobile radio services. The affect of these monopolistic activities will be felt especially amongst Hispanic radio broadcasters. Additional economic pressures will be placed on Hispanic radio broadcasters and likely lead to substantial degradation of the Hispanic radio market. As a result, Hispanic businesses looking to advertise on Hispanic radio stations will suffer, as it will become more difficult for these businesses to reach their target demographic.

Despite the claims of Sirius and XM, we believe that the proposed merger is even more egregious than the DirecTV-EchoStar merger that the Commission rejected in 2002. Unlike the direct broadcast satellite merger, which would have been a merger from three to two competitors, a satellite radio merger would be a merger of two competitors to one unrivaled entity. In 1997, when the Commission authorized the launch of satellite radio, it recognized the competitive benefit of having two players in the satellite radio market. Make no mistake; satellite radio is a distinct and separate market. No other service, be it terrestrial broadcasters, iPods, or Internet radio, provides the same kind of national, pre-packaged, multi-channel, mobile audio service that XM and Sirius do.

While the satellite radio industry claims that the merger will provide more programming to underserved and niche audiences, there is no reason to believe that a merger of those two companies will provide them more incentive to serve Hispanic interests. Given their investment in expensive personalities like Howard Stern and sports programming like the NFL, it is far more likely that a combined XM/Sirius will prioritize this type of widely popular programming at the expense of Hispanic-focused programming. This belief becomes more evident when considering the XM/Sirius proposed post-merger price plan. It is clear that the "a la carte" subscription plans do not provide real choice, especially for the Hispanic community. Under the most expansive "a la carte" package, subscribers are limited to choosing from only 11 channels from the other service. To date these channels have not yet been determined and are cited as only including the "top selections" of each service. "Top selections" will likely include mainstream channels and not any niche programming, such as Hispanic programs.

Furthermore, XM and Sirius currently run incompatible delivery systems. Under their proposed post-merger price plan, consumers are required to purchase new "next generation" radios in order to subscribe to their a la carte plans. In addition, if XM and Sirius want to expand their "best of both worlds" offerings they will ultimately have to eliminate programming on

either service on a one-to-one basis. The first channels most likely to be sacrificed to accommodate this "expansion" would be niche channels, including Hispanic programming.

For these reasons, we urge the FCC and DOJ to reject the proposed merger of XM and Sirius satellite radio. Please contact me or David Ferreira, Vice President of Government Affairs, if you have any questions or need more information about our views on this merger.

Sincerely,

A handwritten signature in black ink, appearing to read "MLB", with a stylized flourish at the end.

Michael L. Barrera
President & CEO