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November 2, 2007

VIA EMAIL AND ECFS

The Honorable Kevin J. Martin, Chairman
The Honorable Michael J. Copps, Commissioner
The Honorable Jonathan S. Adelstein, Commissioner
The Honorable Deborah Taylor Tate, Commissioner
The Honorable Robert M. McDowell, Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Written Ex Parte Presentation in Connection with the Consolidated Application for Authority to Transfer Control in Connection with the Sirius/XM Merger, as amended (MB Docket No. 07-57)

Dear Mr. Chairman and Commissioners:

The Consumer Coalition for Competition is Satellite Radio ("C3SR"), through its counsel, hereby submits for your consideration in the above-referenced docket the attached article authored by Evelyn M. Rusli and published at Forbes.com, entitled "Sirius Dogged By Good News."[1] The article summarizes the "solid" third-quarter earning report of Sirius Satellite Radio Inc. ("Sirius"). Sirius reported sales of $241.8 million, an increase of 44.7 percent over the same quarter in 2006. Sirius also reported a 49.8 percent subscriber increase over the past year – boasting 7.7 million subscribers. As noted by Sirius CEO Mel Karmazin, "[s]trong demand for the Sirius service drove robust subscriber growth." Sirius anticipates eclipsing 8 million subscribers by the end of 2007.

These sales and subscriber figures, coupled with Mr. Karmazin's own estimation of the "[s]trong demand for the Sirius service," is clear evidence that competition with XM Satellite Radio Inc. ("XM") has not weakened Sirius. Sirius and XM each offer distinct varieties of commercial-free music and unique programming on a nationwide basis. Millions of consumers have invested in satellite radio receivers and have made their choices. If the FCC approves the proposed merger between Sirius and XM, consumers will no longer have a choice

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in satellite radio and will be forced to accept the programming and prices dictated to them by a monopoly provider. There is no substitute for satellite radio, and a regulated monopoly is no substitute for competition. C3SR urges the Commission to protect the interests of consumers by denying the proposed merger.

A copy of this letter and the attached article will be submitted via ECFS for inclusion in the above-referenced docket pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, and Public Notice DA 07-1435 (released March 29, 2007).

Respectfully submitted,

Julian L. Shepard
Counsel for C3SR

Attachment

Forbes.com

Market Scan

Sirius Dogged By Good News

Evelyn M. Rusli, 10.30.07, 3:00 PM ET

Nothing short of a finalized merger with skymate **XM Satellite Radio**, will make Sirius Satellite Radio investors happy. On Tuesday, Sirius' third-quarter earnings report was in line with Wall Street's expectations, but its stock stumbled 4.4%, or 16 cents, to $3.45, in midday trading.

It was a sharp fall for what was a decent quarterly report.

The satellite radio provider narrowed its loss to $120.1 million, or 8 cents a share, from $162.9 million, or 12 cents a share, for the year-ago period. Meanwhile, sales ticked up 44.7%, to $241.8 million, from $167.1 million. While the sales figure was just below the Street's call of $244.3 million, profits on a per-share basis were right in line with analyst expectations.

In addition, more customers flocked to Sirius, as the company expanded its subscriber base by 49.8%, to 7.7 million subscribers, from 5.1 million for the year-earlier period. The company predicts it will pass the 8 million mark by the end of this year.

"Strong demand for the Sirius service drove robust subscriber growth, and, when coupled with a continuing focus on cost control, allowed Sirius to significantly reduce our net loss and places us on-track to achieve our financial goals," Chief Executive Officer Mel Karmazin said.

"We expect strong holiday season sales and we are targeting positive free cash flow for the fourth quarter of 2007."

Despite the swath of positive indicators, the stock retreated Tuesday, as investors digested the report.

In Wall Street's twisted logic, that good can sometimes mean bad, there was some speculation that the solid report could be detrimental to Sirius' merger plans with XM Satellite Radio. The comanies are struggling to finalize a combination, despite opposition from the Federal Communications Commission and the Department of Justice.

Given Sirius' positive report card, federal regulators may be less sympathetic to the merger. A strong performance by one company, or signs of growing momentum, may encourage regulators to hold off on approval. So far, Sirius is the only one has to worry about that. Last week, XM said its third-quarter loss widened 70.1%, to $145.4 million, or 47 cents per share, from $85.5 million, or 32 cents per share, for the year-ago period, which was a larger deficit than the Street expected. XM, which has never had a profitable year, is also paying 23.4% more to add on subscribers.

Despite the hurdles ahead, Sirius and XM have some champions in their corner. Last week, a group of Democrats from the House of Representatives sent a letter to the Federal Communications Commission Chairman Kevin Martin calling him to approve the merger.
"We firmly believe that allowing these satellite-radio companies to merger in order to be able to better meet the content needs of this market on a national basis, with exceptional digital sound quality and no commercials, at relatively low costs to the consumer, is in the public interest," the letter said.

Shares of XM were down 8.2%, or $1.25, to $13.92, on Tuesday afternoon.