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November 20, 2007

The Honorable Kevin Martin
The Honorable Michael Copps
The Honorable Jonathan Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert McDowell
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20054

Re: Consolidated Application for Authority to Transfer Control of XM Satellite
Radio Holdings Inc. and Sirius Satellite Radio Inc.
MB Docket No. 07-57

Dear Mr. Chairman and Commissioners:

Attached in connection with the above-referenced Sirius/XM proposed merger is the *ex parte* submission of Georgetown Partners L.L.C.

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this letter and its associated written *ex parte* submission is being filed in the above docket.

Respectfully submitted,



David R. Siddall
Michael Lazarus
Counsel to Georgetown Partners L.L.C.

cc:

Amy Blankenship
Rudy Brioché
Michelle Carey
Rick Chessen
Cristina Chou Pauzé
Angela Giancarlo
Aaron Goldberger
Daniel Gonzalez

November 20, 2007

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Jim Bird
Catherine Bohigian
Ann Bushmiller
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Monica Desai
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Jerry B. Duvall
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Marcia Glauberman
Rosemary Harold
Judith Herman
Jamila Bess Johnson
Belinda Nixon
Joel Rabinowitz
Marilyn Simon
Elvis Stumbergs
George Williams

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)
)
XM Satellite Radio Holdings Inc.,)
)
 Transferor,)
)
and)
Sirius Satellite Radio Inc.,)
)
 Transferee.)
)
Consolidated Application for Authority to)
Transfer Control of XM Radio Inc. and)
Sirius Satellite Radio Inc.)
_____)

MB Docket No. 07-57

To: The Commission

***EX PARTE* SUBMISSION OF GEORGETOWN PARTNERS L.L.C.**

INTRODUCTION

In filings submitted to the FCC and in meetings with FCC officials, Georgetown Partners L.L.C. (“Georgetown”), a minority owned investor, urged that the proposed Sirius/XM merger not be approved as it is now structured because such approval would have unprecedented adverse competitive effects. Georgetown suggested as a possible remedy to the adverse competitive effects an affirmative condition meeting the public interest requirements of Section 310(d) of the Communications Act. To accomplish this, the Commission should require that Sirius/XM lease (i) their broadcast infrastructure, and (ii) at least 20% of their channel capacity on a long term or permanent basis to a minority controlled entity to ensure competition and diversity in the satellite radio marketplace. Georgetown emphasized that it is prepared to

negotiate such a lease with Sirius/XM.¹

In a filing dated November 13, 2007, Sirius and XM attacked Georgetown's proposal. Below is Georgetown's response to Sirius/XM.²

THE SIRIUS XM MERGER CREATES A MONOPOLY

If this merger is approved as structured, the Commission will have approved the creation of a single entity with control over all 300+ nationwide satellite radio broadcast channels, thereby enabling this entity to exclude any programmer or message, for any reason, from the national satellite radio marketplace. This would be the first time such absolute control in this country is created over such an important and fast-growing medium.

THE FCC HAS RECEIVED NUMEROUS FILINGS IN OPPOSITION TO THE MERGER, INCLUDING FILINGS BY SENATOR HERBERT KOHL AND THE MAJORITY OF MEMBERS OF CONGRESS WHO HAVE EXPRESSED VIEWS ON THE MERGER

In their November 13 filing, Sirius and XM urge the Commission to reject Georgetown's minority-based spectrum divestiture remedy, citing, in part, "...the impressive record of content providers and organizations representing the interests of underserved communities supporting the merger," including several members of the Congressional Black Caucus and the National Association for the Advancement of Colored People ("NAACP").³ While these entities previously expressed support for the merger, Sirius and XM's argument suffers from a major flaw in that it is based on a reading of the record that is both incomplete and out-of-date. A

¹ See Georgetown Partners Letters filed in MB Docket No. 07-57 on October 18, November 2, and November 5, 2007.

² See Letter and filing dated November 13, 2007, Consolidated Application for Authority to Transfer Control of XM Satellite Radio Holdings Inc. and Sirius Satellite Radio Inc., MB Docket No. 07-57, submitted jointly by XM and Sirius ("November 13, 2007 *Ex Parte*").

³ See *id.*

complete and current review of the record reveals a much different story.

Significantly, in a letter dated May 23, 2007, Senator Herbert Kohl, Chairman of the Subcommittee on Antitrust, Competitive Policy and Consumer Rights, urged that the Department of Justice and the FCC “take all necessary actions to deny approval of this merger and prevent the creation of this satellite radio monopoly.”⁴ Among the many arguments put forward by Senator Kohl was his belief that the “lack of a viable competitive alternative existing today to the satellite radio monopoly created by this merger is a sufficient independent reason to block this merger.”⁵

Not only is the proposed merger itself *opposed* by the majority of Members of Congress who have weighed-in on the subject and who represent the interests of underserved communities, but several such Members, including two who previously wrote in support of the merger, recently announced their strong support for the minority-based spectrum divestiture proposed by Georgetown.⁶

Specifically, to date, most of the members of the Congressional Black and Hispanic Caucuses that have taken a public position on the proposed merger of Sirius and XM appear to either oppose the merger outright or support Georgetown’s proposal.⁷ Indeed, every one of the

⁴ See Letter from the Honorable Herb Kohl to the Honorable Thomas Barnett and the Honorable Kevin Martin (May 23, 2007) (attached).

⁵ See *id.*

⁶ See Letter from the Honorable Gregory W. Meeks to the Honorable Kevin J. Martin, Chairman (Nov. 8, 2007) (attached); see also Letter from the Honorable Corinne Brown to Chairman Kevin J. Martin (Nov. 9, 2007) (attached).

⁷ See Letter from 72 Members of the House of Representatives to Attorney General Alberto R. Gonzales, FCC Chairman Kevin J. Martin, and FTC Chairman Deborah Platt Majoras, MM Docket No. 07-57 (June 18, 2007) (attached).

Congressional Hispanic Caucus (“CHC”) members who have weighed-in in this proceeding express outright opposition to the merger.⁸

At the same time, there is growing support for Georgetown’s proposal. For example:

[The] structure [of the Georgetown proposal] would assure the public, and specifically our minority population, of competing diverse program service consisting of 50-100 channels in the satellite radio marketplace. The fact that Georgetown’s proposal provides free over-the-air ad-supported programming as its primary offering gives our minority community a choice and is particularly appealing to me. I wholeheartedly support this proposal.⁹

Indeed, six (6) Congressional Black Caucus members – Rep. Albert R. Wynn, Rep. William Lacy Clay, Rep. G.K. Butterfield, Rep. Elijah Cummings, Rep. Bennie Thompson and Rep. David Scott – are on record in a joint letter supporting the Georgetown proposal.

Specifically, they urge:

[I]f the FCC does [approve the merger], we feel that a minority-controlled entity should have rights to the broadcast infrastructure. By allowing a minority-controlled entity to be the lessee, the Commission would serve the public interest by achieving diversity of ownership in this large medium and enhanced minority ownership of media in general – two areas that the Commission has been asked to address by advocacy groups from various cross sections of our society.¹⁰

⁸ See *id.*; see also Letter from The Honorable Charles A. Gonzalez to U.S. Attorney General Alberto R. Gonzales, FCC Chairman Kevin J. Martin and FTC Chairman Deborah Platt Majoras, MM Docket No. 07-57 (May 31, 2007) (attached).

⁹ See Letter from The Honorable Sanford D. Bishop to Chairman Kevin J. Martin (Nov. 7, 2007) (attached) and from The Honorable Corinne Brown to Chairman Kevin J. Martin (Nov. 9, 2007) (attached).

¹⁰ See Letter from The Honorable Albert R. Wynn, *et al* to Chairman Kevin J. Martin (Nov. 9, 2007) at 2 (attached).

That entities other than Members of Congress – including the NAACP – have expressed support generally for the proposed merger is similarly countermanded by several facts. First, the support expressed by the NAACP in June 2007 cannot reasonably be used to weigh against the Georgetown proposal, given that it was proffered months before the Georgetown proposal was on the table. Second, several other major, national organizations representing the interests of underserved communities – including the Rainbow/PUSH Coalition and the Black Leadership Forum -- are just as strongly opposed to the merger.¹¹ Of particular note is the opposition of the Black Leadership Forum, Inc. (“BLF”), which is comprised of thirty-five member organizations – including the NAACP and the NAACP Legal Defense and Educational Fund – and which represents 10 million African-Americans.¹² Finally, and most importantly, while the BLF has strongly opposed the merger from the outset, and has recently reiterated that it is “determined in [its] objections to the [Sirius/XM] merger, as currently structured,” the organization now supports the minority-based spectrum divestiture proposal, and urges that the Commission “give full weight to Georgetown’s proposed recommendation as a prerequisite to approving any kind of merger between Sirius and XM.”¹³

¹¹ See Press Release of the Rainbow/PUSH Coalition (Oct. 31, 2007), (attached). see also Letter of Gary L. Flowers, Black Leadership Forum, Inc., to Chairman Kevin J. Martin and Commissioners Copps, Adelstein, Tate and McDowell (Aug. 3, 2007).

¹² See Letter of Gary L. Flowers, Black Leadership Forum, Inc., to Chairman Kevin J. Martin (attached).

¹³ *Id.* at 2.

Indeed, notwithstanding Sirius and XM's rather paternalistic view that the proposal of this minority-controlled entity "ultimately would deny benefits to the groups it seeks to benefit,"¹⁴ there is not a single entity on the record of this proceeding that opposes such a requirement other than the joint applicants themselves. One would imagine that entities devoted to serving the best interests of minority and other underserved communities would recognize a bad deal for their constituency when they see it. As a complete and current review of the record of this proceeding reveals, these entities embrace Georgetown's proposal as a meaningful, practical way to give effect to the Commission's core value of promoting greater diversity in media. The Commission should heed the advice of these public interest entities by conditioning any approval of the proposed merger as proposed by Georgetown.

**GEORGETOWN PROPOSES THAT THE MERGER BE RESTRUCTURED AS A
CONDITION TO APPROVAL AND THAT THE FCC EMBRACE GEORGETOWN'S
VISION OF FAMILY ORIENTED PROGRAMMING**

This merger needs to be restructured before it can be deemed in the public interest. The FCC should exercise its authority to require that, as a prerequisite condition to approval, Sirius/XM must sublease to a minority controlled entity on a long-term or permanent basis both broadcasting infrastructure and the necessary channel capacity so that effective competition can be restored in the satellite radio marketplace. If this condition is adequately implemented, the statute's public interest objectives of diversity of content and minority participation may be satisfied. As earlier stated, Georgetown is prepared to work with Sirius and XM to realize this important public interest objective through a restructured transaction.

¹⁴ *See id.*

Georgetown also proposes to offer a substantial number of free, over-the-air programs so that consumers will have choices in satellite programming. Georgetown intends that this programming include a robust selection of family oriented material; believing that more Americans favor what is generally perceived as decent programming. This view is contrary to the history of the Chief Executive of Sirius.

MR. KARMAZIN, DESIGNATED TO BE IN CHARGE OF THE NEW SIRIUS/XM COMBINED ENTITY, HAS A RECORD OF PROMOTING PROGRAMMING FOR WHICH THE COMMISSION HAS CENSURED TERRESTRIAL STATIONS

Mr. Karmazin has promoted programming considered by the FCC to be indecent throughout his radio broadcast career, typified by his long and close association with radio shock-jock Howard Stern. The New York Times has noted that “[t]hroughout his career, Howard Stern has had no more powerful and vocal champion than Mel Karmazin. . . .”¹⁵ This association has resulted in millions of dollars in fines levied by the Commission against stations carrying Howard Stern’s broadcasts. Mel Karmazin and Howard Stern have been associated with each other since the 1980’s. Indeed, Stern once stated that Karmazin “rescued” him in the 1980’s by making him morning host of WXRK-FM in New York.¹⁶ After Mr. Karmazin left Viacom, Stern stated that “[w]ith Mel gone, I am seeing the darkness at the end of the tunnel . . . [h]e’s the guy that had my back.”¹⁷ Not surprisingly, Mr. Karmazin once again engaged Mr. Stern to broadcast over satellite radio, free of the indecency constraints of terrestrial broadcast radio. Recently, Mr. Karmazin boasted that Howard Stern “has helped satellite radio.”¹⁸

¹⁵ “But Wait, What Does All This Mean for Howard Stern,” New York Times, June 2, 2004.

¹⁶ “What Will Stern Do if FCC Cracks Down on His Radio Show?” USA Today, June 13, 2004.

¹⁷ *Id.*

¹⁸ A conversation with Mel Karmazin, CEO of Sirius Satellite Radio, dated November 9, 2007, (continued...)

Moreover, with Mr. Karmazin as President, Infinity Broadcasting settled a number of proposed Commission fines and forfeitures for over \$1.7 million dollars due to Howard Stern programming.¹⁹ For example, in 1992 the Commission released a notice of apparent liability for forfeiture against Infinity stations carrying Howard Stern's programming due to language that illuminated "a dwelling on sexual matters, including sexual intercourse, orgasm, masturbation, lesbianism, homosexuality, breasts, nudity, and male and female genitalia."²⁰ In addition, in 1994, the Commission released a notice of apparent liability for forfeiture against Infinity stations carrying Howard Stern's programming due to "language that describes sexual and excretory activities and organs in patently offensive terms."²¹ This type of indecent language was used repeatedly during Howard Stern's broadcasts. With no regulatory oversight of the satellite radio broadcast channels, one can only imagine the future of this type of radio programming.

(...continued)

viewed at: <http://www.chicagotribune.com/services/newspaper/printedition/friday/chicoped1109siriusnov09,0,1571993.story> (last viewed on Nov. 19, 2007).

¹⁹ See Sagittarius Broadcasting Corporation, Infinity Broadcasting Corporation of Pennsylvania, and Infinity Broadcasting Corporation of Washington, D.C., *Order*, 10 FCC Rcd 12245 (rel. Sept. 5, 1995).

²⁰ See Liability of Sagittarius Broadcasting Corporation, Infinity Broadcasting Corporation of Pennsylvania & Infinity Broadcasting Corporation of Washington, D.C., Licensee of Radio Stations WXRK(FM), New York, New York WYSP(FM), Philadelphia, Pennsylvania, & WJFK(FM), Manassas, Virginia for a Forfeiture, *Notice of Apparent Liability for Forfeiture*, 5 FCC Rcd 7291 (rel. Dec. 7, 1990).

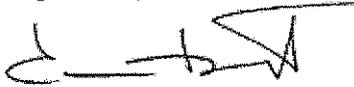
²¹ See Mr. Mel Karmazin, President Infinity Broadcasting Corporation, Licensee of Radio Station WJFK(AM) Baltimore, Maryland, Controlling Parent of: Sagittarius Broadcasting Corporation Licensee of Radio Station WXRK(FM), New York, New York, Infinity Broadcasting Corporation of Pennsylvania, Licensee of Radio Station WYSP(FM), Philadelphia, Pennsylvania, Infinity Broadcasting Corporation of Washington, D.C., Licensee of Radio Station WJFK(FM), Manassas, Virginia, 600 Madison Avenue, Fourth Floor, New York, New York 10002, *Notice of Apparent Liability for Forfeiture*, 8 FCC Rcd 6740 (rel. Aug. 12, 1993).

Given that Mr. Karmazin will head the new merged entity, approving this merger essentially guarantees more of this type of programming. Georgetown does not believe that more of this type of programming is needed, and such programming certainly does not support the public interest that the FCC must affirmatively find in order to approve this merger. We therefore want the FCC and the public to know that Georgetown will not engage in this sort of programming and voluntarily will ensure that all of its programming complies with the FCC's broadcast indecency rules notwithstanding that legally such rules do not apply to satellite broadcasting.

CONCLUSION

For the foregoing reasons, the Commission should reject the Sirius/XM transaction. However, any Commission approval of the Sirius/XM transaction must be conditioned upon the adoption of Georgetown's proposal, in which Sirius/XM must lease (i) their broadcast infrastructure and (ii) at least 20% of their channel capacity on a long-term or permanent basis to a minority controlled entity.

Respectfully submitted,



By: _____

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November 20, 2007

United States Senate
WASHINGTON, DC 20510

May 23, 2007

The Honorable Thomas Barnett
Assistant Attorney General
Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Assistant Attorney General Barnett and Chairman Martin:

I write to you concerning the proposed merger between XM Satellite Radio and Sirius Satellite Radio, now under review at the Justice Department and the Federal Communications Commission. The Senate Subcommittee on Antitrust, Competition Policy and Consumer Rights recently held a hearing to examine the competitive issues surrounding this merger, and we have now completed our examination of this transaction. I have concluded this merger, if permitted to proceed, would cause substantial harm to competition and consumers, would be contrary to antitrust law and not in the public interest, and therefore should be blocked by your agencies.

As you know, XM and Sirius are the only two providers of satellite radio service in the United States. If satellite radio is considered to be a distinct market, this merger is to a two to one merger to monopoly and should be forbidden under the antitrust laws. If satellite radio is a separate market, the combined firm will have the ability to raise price to consumers, who will have no choice to accept the price increase. Such a result should be unacceptable under antitrust law and as a matter of communications policy.

It is my conclusion that satellite radio is in fact a separate market. I reach this conclusion for the following reasons. Satellite radio is the only medium offering hundreds of radio channels (170 channels in the case of XM and more than 75 in the case of Sirius) with a tremendous variety of music formats, entertainment programming, live sports on a national basis and extensive news programming. Satellite radio is delivered in far superior sound quality to terrestrial radio and is largely commercial free. Satellite

radio is a national service, delivered to consumers on a nationwide basis, and travels with listeners as they move about the country in their automobiles, where the majority of radio listening occurs.

No other audio service existing currently is a viable substitute for satellite radio. Unlike the national nature of satellite radio, terrestrial radio is locally based, and has a much more limited number of radio stations than satellite radio's channels in any local geographic market. Terrestrial radio cannot move with listeners as they travel to different cities, does not offer the variety of programming available on satellite radio (including, for example, out of town sports broadcasts or specialized music formats), and offers inferior audio quality.

Nor are newer technologies a substitute for satellite radio. MP3 players such as iPods cannot offer the programming offered on satellite radio, such as live news and sports broadcasts. And with the cost of music commonly priced at about one dollar per song, it would cost consumers many thousands of dollars to legally duplicate on an MP3 player the musical offerings available on satellite radio. Nor is wireless internet radio a competitive alternative today. There are very few devices to receive wireless internet radio presently available to consumers. Even more important, the technology to deliver wireless internet to listeners in their automobiles as they travel between cities (and to a large extent within cities) is virtually unavailable. No other technology available today is a substitute for the satellite radio.

The lack of a viable competitive alternative existing today to the satellite radio monopoly created by this merger is a sufficient independent reason to block this merger. The merger's proponents, however, argue that new technologies will in the future create competitive alternatives. However, only new entry that is "timely" is properly considered to be a competitive alternative under antitrust analysis. "Timely" means likely to be on the market within the next two years.¹ No new technology satisfies this requirement. The deficiencies of the new technologies previously identified making these technologies an unsuitable competitive alternative are unlikely to be remedied in the next two years. While it is possible that wireless internet radio, for example, could become a viable competitive alternative sometime in the future, our concern is the marketplace today. Consumers should not suffer the price increases likely to result from a merger to monopoly because of a vague hope that new technologies may deliver new competitive alternatives sometime in the future.

In addition, the parties concede that, due to the enormous capital expenditure running into billions of dollars for new satellites, as well as the regulatory difficulties in obtaining new spectrum licenses, the parties concede that the entry of a new satellite radio service is unlikely. When asked by at our hearing on March 20, 2007, whether entry by another satellite radio company was likely, the CEO of Sirius, Mel Karmazin responded that "I do have a clear answer to that question. . . . You're asking whether I

¹ The antitrust agencies "generally will consider timely only those committed entry alternatives that can be achieved within two years from initial planning to significant market impact." Department of Justice/Federal Trade Commission Horizontal Merger Guidelines, Sec. 3.2 at 27.

think there will be another satellite competitor, the answer will be, probably not.” Without the possibility of new entry of a new satellite competitor, and without the existence of any true competitive alternative from any other audio service, the combination of Sirius and XM will result in a merger to monopoly.

Some public interest advocates have argued that the merger should be subject to binding conditions to protect competition and consumers as an alternative to being blocked. The conditions proposed include (i) a price cap on satellite radio service for a meaningful period of time after the merger; (ii) new pricing choices such as tiered programming; and (iii) the combined company making available a designated portion of its capacity (i.e., 5-10%) for educational, informational or independent entertainment programming over which it has no editorial control. However, I believe that none of these conditions would be sufficient to ameliorate the substantial harm to competition caused by this merger.

At our hearing, Sirius promised to enter into a price cap after the merger. In answers to written follow-up questions, Mel Karmazin stated that “[f]ollowing the merger, we will not raise either the \$ 12.95 that each satellite radio company currently charges consumers, or the \$ 26 dollars [sic] that it costs to get both services.” He further agreed to this commitment as part of an enforceable FCC order or antitrust consent decree. See Karmazin Answer to Sen. Kohl’s Follow-Up Question 1 (copy attached). However, I am concerned that even if either of your agencies were willing to enter into such a decree, enforcement of such a decree might mean that the satellite radio industry would be subject to intrusive governmental regulation for years to come. A competitive marketplace that would not require extensive regulatory oversight is far preferable, and such a competitive marketplace can only be assured by blocking this merger.

In sum, because this merger will result in a satellite radio monopoly, it will violate section 7 of the Clayton Act which forbids any merger or acquisition when “the effect of such acquisition may be substantially to lessen competition, or tend to create a monopoly.” Elimination of the head-to-head competition currently offered by XM and Sirius leaving only a monopoly satellite radio service will likely result in higher prices and poorer service being offered to consumers. Satellite radio is a unique service for which none of the other audio services is a substitute. Uncertain promises of competition from new technologies tomorrow do not protect consumers from higher prices today. The antitrust laws should not countenance such a dangerous outcome. I therefore urge the Justice Department to bring a legal action to block this merger.

Further, because of the likely harm to competition and consumers, we believe this merger is not in the public interest, and we likewise urge the FCC to deny approval to this merger under the Communications Act. Nor has there any basis demonstrated for the FCC to eliminate its rule – first promulgated when satellite radio was licensed in 1997 -- that there be at least two licensees for satellite radio.

I therefore urge that both of your agencies take all necessary actions to deny approval of this merger and prevent the creation of this satellite radio monopoly.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Herb Kohl". The signature is written in a cursive style with a horizontal line underneath it.

HERB KOHL

Chairman, Subcommittee on
Antitrust, Competition Policy and
Consumer Rights

PLEASE RESPOND TO:

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Congress of the United States
House of Representatives

GREGORY W. MEEKS
6TH DISTRICT, NEW YORK

November 8, 2007

COMMITTEES:
FINANCIAL SERVICES
SUBCOMMITTEES:
CAPITAL MARKETS, INSURANCE, AND
GOVERNMENT SPONSORED ENTERPRISES
DOMESTIC AND INTERNATIONAL MONETARY
POLICY, TRADE AND TECHNOLOGY
FOREIGN AFFAIRS
SUBCOMMITTEES:
WESTERN HEMISPHERE
INTERNATIONAL ORGANIZATIONS, HUMAN
RIGHTS, AND OVERSIGHT
ASIA, THE PACIFIC, AND THE
GLOBAL ENVIRONMENT

The Honorable Kevin Martin, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin:

Last week I, along with several of my colleagues, wrote to inform you that we support the consolidated transfer applications of XM Satellite Radio Holdings Inc. ("XM") and Sirius Satellite Radio Inc. ("Sirius"). In that letter, we stated that the merger would allow the companies to offer "more unique and diverse programming" by better utilizing capacity.

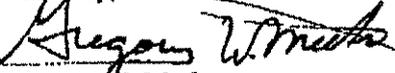
However, it has just recently come to my attention that Georgetown Partners, a minority-owned private equity firm, has presented a proposal to both the FCC and the Department of Justice that specifically addresses the issue of diverse programming. This approach also been endorsed by several leading organizations committed to our nation's minority population.

Under the proposed structure, a minority controlled entity would lease sufficient broadcast infrastructure and at least 20 % channel capacity on a long term or permanent basis from the merged company, as a pre-condition of the merger. Such a structure would assure the public, and specifically our minority population, of competing diverse program service consisting of 50-100 channels in the satellite radio marketplace.

By allowing a minority-controlled entity to be the lessee, the Commission would serve the public interest by achieving diversity of ownership in this large medium as well as enhanced minority media ownership in general-two areas that the Commission has been asked to address by advocacy groups from various cross sections of our society.

As you consider the pending consolidated transfer applications of XM and Sirius, I strongly urge you and you and your fellow Commissioners to give due diligence and review this type of proposal to ensure that minorities have continual access to diverse programming in satellite radio.

Sincerely,



Gregory W. Meeks
Member of Congress

COMMITTEES:

TRANSPORTATION & INFRASTRUCTURE
RAILROAD PIPELINES, AND HAZARDOUS MATERIAL, CHAIRWOMAN
COAST GUARD AND MARINE TRANSPORTATION
AVIATION

VETERANS' AFFAIRS
HEALTH

MEMBERSHIPS:

CONGRESSIONAL BLACK CAUCUS
CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES
CONGRESSIONAL HUMAN RIGHTS CAUCUS
CONGRESSIONAL MISSING AND EXPLOITED CHILDREN'S CAUCUS
CONGRESSIONAL DIABETES CAUCUS
OLDER AMERICANS CAUCUS
PROGRESSIVE CAUCUS
THE DUMA CONGRESS STUDY GROUP

**Congress of the United States
House of Representatives
Washington, DC 20515**

CORRINE BROWN
3D DISTRICT, FLORIDA

November 9, 2007

REPLY TO:

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GAINESVILLE, FLORIDA
(352) 378-6476

The Honorable Kevin Martin, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin:

Last week I, along with several of my colleagues, wrote to inform you that we support the consolidated transfer applications of XM Satellite Radio Holdings Inc. ("XM") and Sirius Satellite Radio Inc. ("Sirius"). In that letter, we stated that the merger would allow the companies to offer "more unique and diverse programming" by better utilizing capacity.

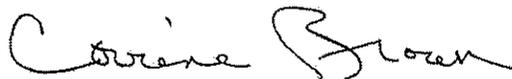
However, it has just recently come to my attention that Georgetown Partners, a minority-owned private equity firm, has presented a proposal to both the FCC and the Department of Justice that specifically addresses the issue of diverse programming. It has also been endorsed by several leading organizations committed to our nation's minority population.

Under the structure proposed by Georgetown Partners, a minority controlled entity would lease sufficient broadcast infrastructure and at least 20 % channel capacity on a long term or permanent basis from the merged company, as a pre-condition of the merger. Such a structure would assure the public, and specifically our minority population, of competing diverse program service consisting of 50-100 channels in the satellite radio marketplace. The fact that Georgetown Partners' proposal provides free over-the-air ad-supported programming as its primary offering gives our minority community a choice and is particularly appealing to me. I wholeheartedly support this proposal.

By allowing a minority-controlled entity to be the lessee, the Commission would serve the public interest by achieving diversity of ownership in this large medium as well as enhanced minority media ownership in general-two areas that the Commission has been asked to address by advocacy groups from various cross sections of our society.

I strongly urge you and you and your fellow Commissioners to give due diligence and review to Georgetown Partners' proposal as you consider the pending consolidated transfer applications of XM and Sirius.

Sincerely,



Corrine Brown
Member of Congress

Congress of the United States

Washington, D.C. 20515

June 18, 2007

The Honorable Alberto R. Gonzales
United States Department of Justice
Robert F. Kennedy Building
950 Constitution Avenue, NW
Washington, DC 20530

The Honorable Kevin J. Martin
Chairman, Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

The Honorable Deborah Platt Majoras
Chairman, Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Attorney General Gonzales, Chairman Martin and Chairman Majoras:

We are writing to express our concerns regarding a potential merger between Sirius Satellite Radio and XM Satellite Radio -- the nation's only two satellite radio providers. On its face, we believe that sanctioning the marriage of the only competitors in the satellite radio market would create a monopoly which would be devastating to consumers.

The FCC demonstrated sound reasoning in its initial decision to license satellite radio operations.¹ The FCC stated: "Our goal is to create as competitive a market structure as possible..." Indeed, the FCC specifically agreed with outside parties -- including Sirius -- that there should be "more than one satellite DARS license awarded. Licensing at least two providers will help ensure that subscription rates are competitive as well as provide for a diversity of voices." Further to the point, the FCC stated: "Even after DARS licenses are granted, *one licensee will not be permitted to acquire control of the other remaining satellite DARS license.*"

¹ Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 12 FCC Red 5457 (1997).



The FCC decision has resulted in robust competition and expanded choice for the American consumer, all of which would be undermined by a merger of Sirius and XM. Without the presence of a similarly-situated, direct competitor, a united Sirius/XM would be free to raise consumer prices.

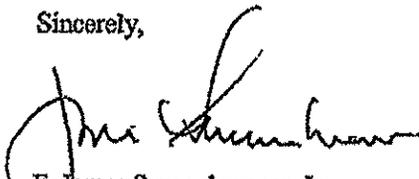
There is scant evidence that a merger would produce any cost savings that a combined Sirius/XM potentially might pass on to subscribers. Both companies are locked into numerous long-term expensive arrangements with their most prized talent and programming. In addition, Sirius and XM would face protracted obstacles to combining their platforms because they use different radio encoding technologies.

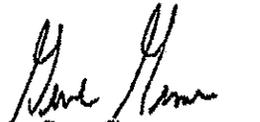
Both Sirius and XM have also made expensive missteps as they rushed to beat each other to market. For example, last summer both companies were forced to halt production of certain radio devices that did not comply with the FCC's rules. The satellite radio devices were causing interference so that consumers listening to FM radio service received unwanted, and sometimes indecent, satellite radio programming over FM frequencies, particularly on noncommercial educational and religious channels located at the lower end of the FM band.² In addition, last October both Sirius and XM confessed to a host of mistakes and misrepresentations concerning their terrestrial repeater networks.³ Among other problems, XM revealed that hundreds of its repeaters are operating in violation of their FCC authorizations, and Sirius also disclosed that some of its repeaters vary from their FCC authorizations, including one in Michigan that is actually located 67 miles away from where Sirius had reported to the FCC.

Present circumstances do not warrant the FCC's complete reversal of its conclusions in the satellite radio licensing decision, or the consumer benefits and protections that have resulted from that decision. The FCC has never before allowed the only two competitors in a given market to combine, and we would seriously question an FCC decision to start now.

We call on the Department of Justice, the FCC, and the FTC to protect consumers, and protect competition, by denying this merger.

Sincerely,


F. James Sensenbrenner, Jr.
Member of Congress


Gene Green
Member of Congress

² Greg Levine, *Halt: Karmazin's Sirius Confronts FCC FM Rule*, *Forbes.com* (July 20, 2006).

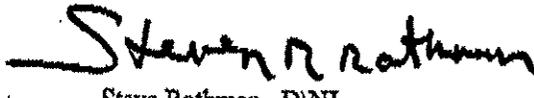
³ Olga Kharif, *Shooting Down Satellite Radio?*, *BusinessWeek.com* (Oct. 30, 2006).


Charlie Wilson D-OH
Member of Congress

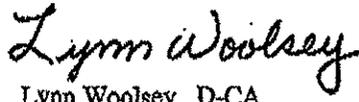

Melissa Bean D-IL
Member of Congress

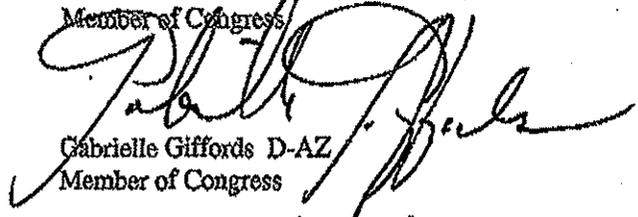

Jim Matheson D-UT
Member of Congress

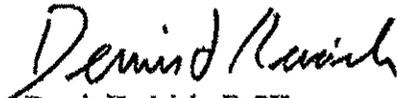

Diane Watson D-CA
Member of Congress


Steve Rothman D-NJ
Member of Congress


Leonard Boswell D-IA
Member of Congress

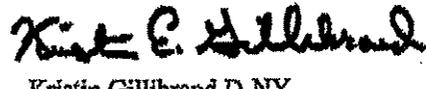

Lynn Woolsey D-CA
Member of Congress


Gabrielle Giffords D-AZ
Member of Congress


Dennis Kucinich D-OH
Member of Congress


Tim Walz D-MN
Member of Congress

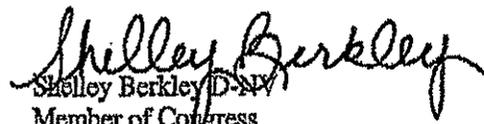

Allen Boyd D-FL
Member of Congress


Kristin Gillibrand D-NY
Member of Congress


David Scott D-GA
Member of Congress

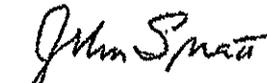

Baron Hill D-IN
Member of Congress


Zach Space D-OH
Member of Congress


Shelley Berkley D-NV
Member of Congress


Eddie Bernice Johnson D-TX
Member of Congress

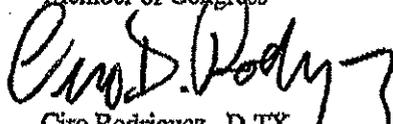

Lois Capps D-CA
Member of Congress


John Spratt D-SC
Member of Congress



Nick Lampson D-TX
Member of Congress


Charlie Melancon D-LA
Member of Congress


Ciro Rodriguez D-TX
Member of Congress



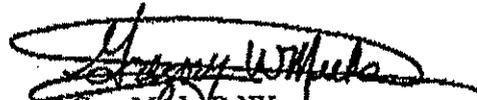
Mike Ross D-AR
Member of Congress


Marion Berry D-AR
Member of Congress

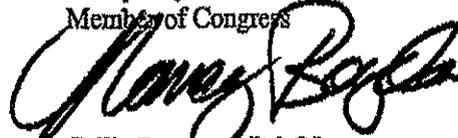

Ed Pastor D-AZ
Member of Congress

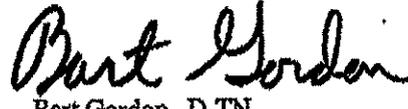

Henry Cuellar D-TX
Member of Congress

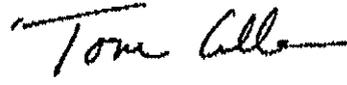

Lacy Clay D-MO
Member of Congress

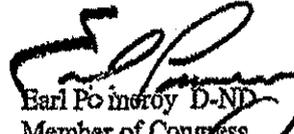

Greg Meeks D-NY
Member of Congress

Nancy Boyda D-KS
Member of Congress

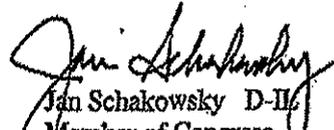

Collin Peterson D-MN
Member of Congress


Bart Gordon D-TN
Member of Congress


Tom Allen D-ME
Member of Congress


Earl Pomeroy D-ND
Member of Congress


Betty McCullom D-MN
Member of Congress


Jan Schakowsky D-IL
Member of Congress


Mike Michaud D-ME
Member of Congress

Louise Slaughter

Louise Slaughter D-NY
Member of Congress

C.A. Dutch Ruppertsberger

C.A. Dutch Ruppertsberger D-MD
Member of Congress

Stephanie Herseth Sandlin

Stephanie Herseth Sandlin D-SD
Member of Congress

Joe Donnelly

Joe Donnelly D-IN
Member of Congress

Michael A. Arcuri

Michael Arcuri D-NY
Member of Congress

Nancy Boyda

Nancy Boyda D-KS
Member of Congress

Albert R. Wynn

Albert Wynn D-MD
Member of Congress

Collin Peterson

Collin Peterson D-MN
Member of Congress

Michael E. Capuano

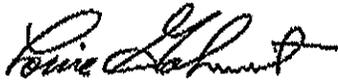
Michael Capuano D-MA
Member of Congress

John Barrow

John Barrow D-GA
Member of Congress

G.K. Butterfield

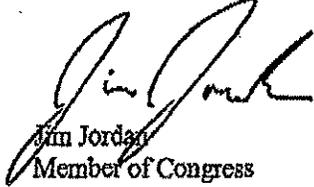
G.K. Butterfield
Member of Congress



Louie Gohmert
Member of Congress



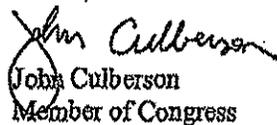
Greg Walden
Member of Congress



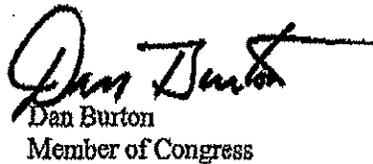
Jim Jordan
Member of Congress



Scott Garrett
Member of Congress



John Culberson
Member of Congress



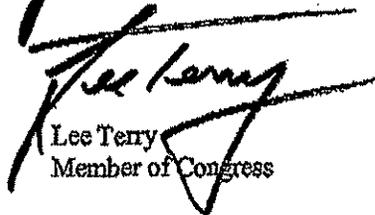
Dan Burton
Member of Congress



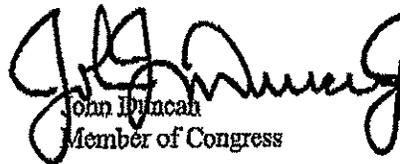
Dan Manzullo
Member of Congress



Dennis Hastert
Member of Congress



Lee Terry
Member of Congress



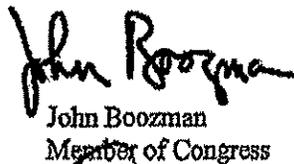
John Duncan
Member of Congress



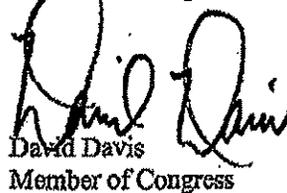
Tom Cole
Member of Congress



Cathy McMorris Rodgers
Member of Congress

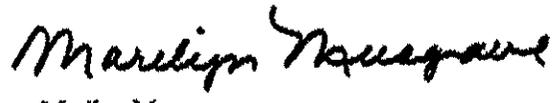


John Boozman
Member of Congress



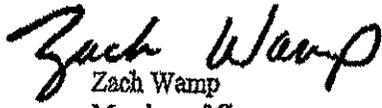
David Davis
Member of Congress

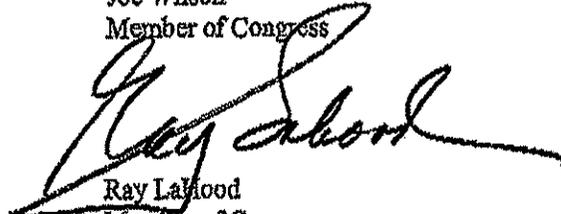

Bob Goodlatte
Member of Congress

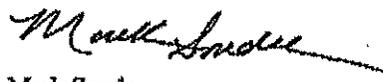

Marilyn Musgrave
Member of Congress


Spencer Bachus
Member of Congress

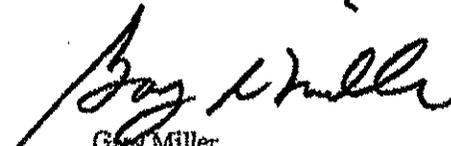

Joe Wilson
Member of Congress


Zach Wamp
Member of Congress


Ray LaHood
Member of Congress


Mark Souder
Member of Congress


Frank A. LoBiondo
Member of Congress


Gary Miller
Member of Congress


Roy Blunt
Member of Congress

07-59

CHARLES A. GONZALEZ

MEMBER OF CONGRESS
20TH DISTRICT, TEXAS

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B-124 FEDERAL BUILDING
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(210) 472-6195 PHONE
(210) 472-4009 FAX

Congress of the United States

House of Representatives

Washington, DC 20515-4320

12 JUN 2007 RCVD

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION
SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
SUBCOMMITTEE ON ENERGY AND AIR QUALITY
CHAIR OF THE CONGRESSIONAL HISPANIC CAUCUS CIVIL RIGHTS TASK FORCE

May 31, 2007

FILED/ACCEPTED

AUG 10 2007

Federal Communications Commission
Office of the Secretary

The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Kevin Martin
Chairman, Federal Communications Commission
445 12th Street SW
Washington, DC 20554

The Honorable Deborah Platt Majoras
Chairman, Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Dear Mr. Attorney General Gonzales, Chairman Martin and Chairman Majoras:

I am writing to express my concern regarding the potential merger between Sirius Satellite Radio and XM Satellite Radio—the nation's only two satellite radio providers. I believe that sanctioning the merger of the only two competitors in the satellite radio market would create a monopoly which would be devastating to consumers.

The FCC demonstrated sound reasoning in its initial decision to license satellite radio operations when it stated, "Even after DARS licenses are granted, one licensee will not be permitted to acquire control of the other remaining satellite DARS license."

The FCC decision has resulted in robust competition and expanded choice for the American consumer, all of which would be undermined by a merger of Sirius and XM. Without the presence of a similarly-situated, direct competitor, a united Sirius/XM would be free to raise consumer prices. Additionally, there is scant evidence that a merger would produce any cost savings that would be passed on to subscribers. Both companies are locked into several multi-million dollar long-term contracts for talent and programming.

Present circumstances do not warrant the FCC's complete reversal of its conclusions in the satellite radio licensing decision. The FCC has never before allowed the only two competitors in a given market to merge and I seriously question the validity and benefits of authorizing such a merger now.

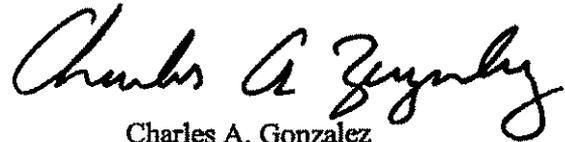
11 JUN 2007 RCVD

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Page 2
May 25, 2007

I call on the DOJ, the FCC and the FTC to continue to protect consumers, and promote competition by giving serious consideration to the concerns expressed in this letter which mitigate against the approval of the merger.

Sincerely,

A handwritten signature in cursive script that reads "Charles A. Gonzalez".

Charles A. Gonzalez
Member of Congress

CAG:LM

SANFORD D. BISHOP, JR.
SECOND DISTRICT, GEORGIA

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:

AGRICULTURE

DEFENSE

MILITARY CONSTRUCTION/VA

WASHINGTON OFFICE

2429 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1002
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FAX: (202) 225-2203



Congress of the United States

House of Representatives

Washington, DC 20515-1002

November 7, 2007

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ALBANY

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ALBANY, GA 31701
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FAX: (229) 436-2088

COLUMBUS

18 NINTH STREET, SUITE 201
COLUMBUS, GA 31901
PHONE: (706) 320-9477
FAX: (706) 320-6478

THOMASVILLE

325 EAST JACKSON STREET
SUITE A
THOMASVILLE, GA 31792
PHONE: (229) 226-7789
FAX: (229) 226-7860

The Honorable Kevin Martin, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin:

Last week I, along with several of my colleagues, wrote to inform you that we support the consolidated transfer applications of XM Satellite Radio Holdings Inc. ("XM") and Sirius Satellite Radio Inc. ("Sirius"). In that letter, we stated that the merger would allow the companies to offer "more unique and diverse programming" by better utilizing capacity.

However, it has just recently come to my attention that Georgetown Partners, a minority-owned private equity firm, has presented a proposal to both the FCC and the Department of Justice that specifically addresses the issue of diverse programming. It has also been endorsed by several leading organizations committed to our nation's minority population.

Under the structure proposed by Georgetown Partners, a minority controlled entity would lease sufficient broadcast infrastructure and at least 20 % channel capacity on a long term or permanent basis from the merged company, as a pre-condition of the merger. Such a structure would assure the public, and specifically our minority population, of competing diverse program service consisting of 50-100 channels in the satellite radio marketplace. The fact that Georgetown Partners' proposal provides free over-the-air ad-supported programming as its primary offering gives our minority community a choice and is particularly appealing to me. I wholeheartedly support this proposal.

By allowing a minority-controlled entity to be the lessee, the Commission would serve the public interest by achieving diversity of ownership in this large medium as well as enhanced minority media ownership in general-two areas that the Commission has been asked to address by advocacy groups from various cross sections of our society.

I strongly urge you and you and your fellow Commissioners to give due diligence and review to Georgetown Partners' proposal as you consider the pending consolidated transfer applications of XM and Sirius.

Sincerely yours,

Sanford D. Bishop, Jr.
Member of Congress

ALBERT R. WYNN
4TH DISTRICT, MARYLAND

SENIOR DEMOCRATIC WHIP

REGIONAL WHIP

COMMITTEE:
ENERGY AND COMMERCE

CHAIRMAN
SUBCOMMITTEE ON
ENVIRONMENT AND
HAZARDOUS MATERIALS

MEMBER
SUBCOMMITTEE ON
ENERGY AND AIR QUALITY



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-2004

November 9, 2007

Web site: <http://www.wynn.house.gov>

WASHINGTON OFFICE:

2470 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2004
TELEPHONE: (202) 225-8699
FAX: (202) 225-8714

MONTGOMERY COUNTY OFFICE:

18401 WOODFIELD ROAD, SUITE D
GAITHERSBURG, MD 20879
TELEPHONE: (301) 987-2054
FAX: (301) 987-2097

PRINCE GEORGE'S COUNTY OFFICE:

9200 BASIL COURT, #221
LARGO, MD 20774
TELEPHONE: (301) 773-4094
FAX: (301) 925-9694

The Honorable Kevin Martin, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin,

We are writing to inform you and your fellow Commissioners of several serious concerns that we have with the consolidated transfer applications of XM Satellite Radio Holdings Inc. ("XM") and Sirius Satellite Radio Inc. ("Sirius").

The merger of Sirius and XM, as currently structured, is not in the public interest. Approval of the merger would reduce to a single FCC licensee exclusive control over the entire spectrum available for nationwide radio broadcasting and related datacasting. With the only two licenses available held by Sirius and XM, and with no more to be issued, enabling these two licensees to merge will eliminate marketplace competition and choke programming and content diversity.

We are deeply concerned about the ramifications of this merger, as currently structured. As today's estimated 32 million automobile satellite receivers grow to hundreds of millions, Sirius and XM should not be exercising exclusive control over every single individual program channel available. The core principle in the Communications Act is the public interest requirement of programming diversity. The Commission must not cast a blind eye with regard to this core principle and, thus, must affirmatively find this provision to be satisfied in deciding the fate of this merger. In short, access to the satellite broadcast airwaves containing hundreds of individual programming channels should not be placed under the control of any single company. That would constitute a monopoly.

We have learned that a minority-owned private investment firm recently proposed to the Commission and the Department of Justice, that the approval of the proposed merger be conditioned upon XM/Sirius being required to lease their broadcast infrastructure and at least 20% of their channel capacity on a long term or permanent basis to a minority controlled entity. The proposal, which would provide 50-100 channels of free diverse satellite radio programming, is particularly appealing to our minority population. Such an offering will provide a real alternative to the expensive mandatory subscription fee based service that would be offered by XM/Sirius.

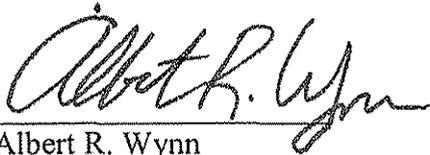
Chairman Martin
November 9, 2007
Page 2

While we must reiterate that we feel that the merger of Sirius-XM does not comport with the public interest, if the FCC does move this way, we feel that a minority-controlled entity should have rights to the broadcast infrastructure. By allowing a minority-controlled entity to be the lessee, the Commission would serve the public interest by achieving diversity of ownership in this large medium and enhanced minority ownership of media in general-two areas that the Commission has been asked to address by advocacy groups from various cross sections of our society.

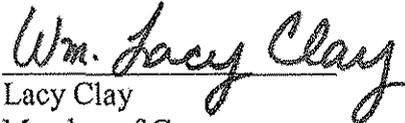
Simply stated, the Sirius-XM merger, as presently structured, does not comply with the Communication Act's public interest standard.

We strongly urge you and your fellow Commissioners to give due diligence and review to our concerns as you consider the pending consolidated transfer applications of XM and Sirius.

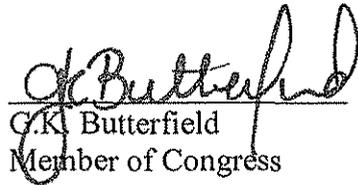
Sincerely,



Albert R. Wynn
Member of Congress



Lacy Clay
Member of Congress



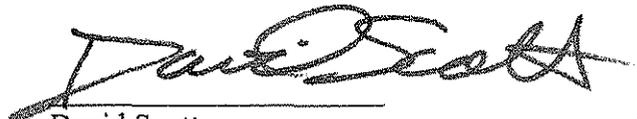
G.K. Butterfield
Member of Congress



Elijah Cummings
Member of Congress



Bennie Thompson
Member of Congress



David Scott
Member of Congress



NATIONAL HEADQUARTERS

930 East 50th Street
Chicago, Illinois 60615
Phone: (773) 373-3366 * Fax: (773) 373-3571

**National Headquarters
Community Services
International Trade Bureau
LaSalle Street Project**
930 East 50th Street
Chicago, IL 60615
Phone: (773) 373-3366
Fax: (773) 373-3571

**Public Policy Institute &
Telecommunications Project**
727 15th St NW
Suite 1200
Washington, DC 20005
Phone: (202) 393-7874
Fax: (202) 393-1495

Wall Street Project
5 Hancock Square
2nd Floor
New York, NY 10004
Phone: (212) 428-7874
Fax: (212) 968-1412

Entertainment Project
1968 West Adams Boulevard
Suite 300
Los Angeles, CA 90018
Phone: (323) 734-3900
Fax: (323) 734-3913

Technology Project
560 20th Street
Oakland, CA 94612
Phone: (510) 869-2202
Fax: (510) 763-2680

Peachtree Street Project
Hemdon Plaza
100 Auburn Avenue
Suite 101
Atlanta, GA 30303
Phone: (404) 525-5663 or 5668
Fax: (404) 525-5233

Automotive Project
First National Building
860 Woodward Avenue
Suite 1433
Detroit, MI 48226
Phone: (313) 963-9005
Fax: (313) 963-9012

**New Orleans Right to Return
and Reconstruction Project**
650 Poydras Street
Suite 1025
New Orleans, LA 70130
Phone: (504) 529-4223
Fax: (504) 529-4232

Energy and Science Project
2616 South Loop West
Suite 440
Houston, TX 77054
Phone: (713) 432-0209
Fax: (713) 218-7072

The Reverend Jesse Jackson States Proposed Sirius- XM Merger Not In Public's Best Interest

Washington D.C. , October 31, 2007- The Reverend Jesse Jackson, in appearing at a Federal Communications Commission hearing on media ownership, stated he was concerned that the proposed Sirius-XM merger, now before the Commission, would eliminate the potential of any meaningful competition in the satellite radio market with which would, in turn, would block permanently the potential for diversity of ownership and control by minorities in the only medium capable of nationwide broadcasting.

The Reverend Jackson said, "I want to also focus the Commission on the very serious concerns that I and others-communities and legislators have about Sirius' proposed acquisition of XM as that transaction is now structured."

"The proposed transaction, which would result in the business combination of the two most significant and largest companies in satellite communications, in effect would create a monopoly, virtually making competition impossible, and programming dangerously subject to the combined entity's self interests and whim. This disadvantages the public. It has the potential of serious economic havoc on any business attempting to be part of this marketplace and to the communities of which these businesses are a part."

"I urge this Commission to view this proposed transaction, as now structured, as not in the public interest. It has the very real potential of eliminating diversity of content and meaningful opportunities for minority partnership in media ownership.

"This should not and cannot happen. The Commission must uphold the statute and regulations to promote content diversity and opportunities for media ownership by minorities.

"The Commission should seize the opportunity presented by this transaction to make a difference that serves the best interests of all concerned- Sirius and XM in their objectives, the marketplace and diversified ownership, competition, and the public's right of access to benefit from as varied programming as is appropriate and feasible."

"I urge the Commission to take the appropriate steps to assure that, if this transaction proceeds, it does so with a structure different from the present-one that best serves the public's good and the public's interest," The Reverend Jackson said.

Rev. Jesse L. Jackson, Sr., *Founder & President*
Martin L. King, *Chairman*
www.rainbowpush.org



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Southern Christian Leadership Conference
TransAfrica Forum
100 Black Men of America, Inc.

The Honorable Kevin Martin, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Martin:

The concerns of the Black Leadership Forum (BLF) regarding the consolidated transfer applications of XM Satellite Radio Holdings Inc. ("XM") and Sirius Satellite Radio Inc. ("Sirius") have become even more heightened since I originally notified you of our opposition to this merger on August 3, 2007. Our organization, comprised of thirty-five member organizations, representing ten million African-Americans, has continued to examine the public record with respect to this merger and is quite alarmed about the adverse impact it could have on both the diversity of programming and the opportunity for diversity of ownership in this media sector.

The merger of Sirius and XM, as the currently structured, is not in the public interest. Charged with assuring that the public interest is served, the FCC must uphold its responsibility by either denying approval of the merger or restructuring the transaction to meet the public interest criteria.

Approval of the merger would reduce to a single FCC licensee exclusive control over the entire spectrum available for nationwide radio broadcasting and related datacasting, thereby creating a monopoly with a stifling lock on the satellite radio marketplace. Enabling XM and Sirius, the only licensees of satellite spectrum, to merge would eliminate marketplace competition and place the public at risk with respect to both programming and content diversity. The FCC must be guided by the key tenets of The Communications Act, diversity of ownership and programming, to assure that the public good is served.

We are pleased that a variation on the structure of the proposed merger has been presented to both the FCC and the Department of Justice by Georgetown Partners, a minority-owned private equity firm. Under their proposed structure, the approval of the merger would be conditioned upon a requirement that XM/Sirius lease their broadcast infrastructure and at least twenty percent of their channel capacity on a long term or permanent basis to a minority-controlled entity. We feel strongly that this proposal is the most effective way to achieve diversity in programming and ensure competition in the satellite radio marketplace, and ultimately serve the public interest. Furthermore, the fact that the proposal provides free over-

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the-air ad-supported programming as its primary offering gives minority communities choices, which is particularly appealing to our vast membership. This structure would achieve a real alternative to the expensive mandatory subscription fee-based service that would be offered by a XM/Sirius entity. We wholeheartedly endorse the Georgetown Partners proposal.

We urge the Commission to give full weight to Georgetown Partners' proposed recommendation as a prerequisite to approving any kind of merger between Sirius and XM. We are determined in our objections to this merger, as currently structured. We expect the Commissioners to act in the public interest in considering the pending consolidated transfer applications of XM and Sirius.

Sincerely,

Gary L. Flowers
Executive Director and CEO