

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Consolidated Application for Authority)	MB Docket No. 07-57
To Transfer Control of XM Radio Inc.)	
And Sirius Satellite Radio Inc.)	

**WRITTEN *EX PARTE* COMMENTS OF THE NATIONAL ASSOCIATION
OF TELECOMMUNICATIONS OFFICERS AND ADVISORS**

I. INTRODUCTION

The National Association of Telecommunications Officers and Advisors (“NATOA”) hereby submits the following written *ex parte* comments in the above-referenced proceeding.

NATOA’s membership includes local government officials and staff members from across the nation whose responsibility it is to develop and administer communications policy and the provision of services for the nation’s local governments.

II. THE PROPOSED MERGER OF XM AND SIRIUS IS NOT IN THE PUBLIC INTEREST

On July 24, 2007, NATOA filed comments in the above-referenced proceeding in which we urged the Commission to deny XM’s and Sirius’s application on the basis that the proposed merger would likely harm consumers by driving up prices, decreasing innovation, and harming the quality of service. Of particular concern was the fact that consumers could face the very real prospect of getting stuck with antiquated hardware that would fail to make use of satellite radio’s full potential.

NATOA continues to stand by these earlier comments and believes that the proposed merger would not be in the public interest. Subsequent to the filing of our comments, it has come to our attention that the proposed merged entity intends to establish a “sole source” model for the design, manufacture, and distribution of satellite radio devices. This is particularly troubling in that it only serves to magnify our concerns regarding the anticompetitive nature of this transaction. It would appear that XM and Sirius intend to create two monopolies: one for subscription satellite radio service and another for the complete vertical integration of the satellite radio device market. If the merger is approved, consumer choice of satellite service providers is eliminated, along with the ability of customers to use the device of their choosing. As the recent 700 MHz auction demonstrates, the requirement that a licensee be required to permit all compatible devices to operate on a network does not deter investment. Open access not only benefits consumers, it also makes sound business sense as well.

In our earlier filing, NATOA outlined a number of reasons why this merger fails to be in the public interest. To that list, we now add the creation of this second monopoly. The Commission should act in the public interest and deny the application.

Respectfully submitted,



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