

April 9, 2008

Chairman Kevin J. Martin

Federal Communications Commission **DOCKET FILE COPY ORIGINAL**

Room 8- B201

445 12th Street, S.W.

Washington, D.C. 20554

2008 APR 15 P 2:01

07-57

Dear Chairman Martin:

It is outrageous that you are being held hostage by a minority of congressmen who are being dictated to by the powerful lobbyists for ~~terrestrial~~ radio.

Now that the DOJ has ruled, there should be no impediment to FCC approval by fair-minded officials.

America was built on free enterprise, ingenuity, choice, hard work and improving technologies. In these recessionary times with the automobile industry struggling satellite radio may cease to exist if your approval is not immediately forthcoming.

Satellite radio is a tiny segment of the radio market with competition coming from multiple sources. I beseech you to end this travesty of justice and grant approval to the merger.

Sincerely,

Robert E. Goedberger, M.D.

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STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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ATTORNEY GENERAL

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2008 APR 15 P 2:02

April 7, 2008

07-57

Mr. Kevin Martin
Chairman
Federal Communications Commission
445 - 12th Street SW
Washington, DC 20554

Dear Mr. Martin:

I write you to urge you to take action to block the proposed license transfer of XM and Sirius satellite radio companies, which would be bad for consumers and bad for competition.

The requested license transfer by XM-Sirius would eliminate competition in the satellite radio industry and the combined XM-Sirius companies would be free to raise prices, stifle innovation, and reduce program diversity. Indeed, the proposed merger has already caused the parties to issue a post-merger subscription plan that will vary the price of subscription by type of service, and may result in consumers paying more for what they could purchase now as a package of services for less. Price increases are only one of the concerns when examining the competition ramifications of this proposed merger.

This combination will result in a single corporation controlling access to all nationally available satellite radio. The U.S. Department of Justice's failure to take action puts the burden on the FCC to take into account a broader public interest standard. Here, there is not an unregulated free market such that another firm could easily enter and compete against XM-Sirius. As you know, the satellite radio industry has very high barriers to entry, including approval to operate required by the FCC, large investments of capital, and strong technical requirements, including satellite launches, which would make it very difficult for a new company to enter the market. Further, we believe customers who have invested in satellite radio receivers would be unlikely to switch to another format.

The alternate format that offers similar services, broadcast radio, is no substitute for satellite radio. Satellite radio is unique and customers are unlikely to switch formats because of its content and coverage. All of XM's and Sirius' content is commercial-free, and paid for by subscribers. Subscribers can also receive the signals from their favorite programs anywhere. This is very different from the traditional broadcast radio, which is highly regulated by your agency and depends heavily on advertising for revenue. Further, listeners are unlikely to find a New York Giants v. Washington Redskins game on broadcast radio in Wisconsin.

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Mr. Kevin Martin
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In terms of coverage, broadcast radio does not have the reach of satellite radio. Milwaukee, Wisconsin's largest city, receives only 41 local radio signals. Although this is a significant amount, it pales in comparison to XM or Sirius, each of which has over 100 channels a piece. About 1.2 million Wisconsinites live in areas that receive fewer than 15 broadcast radio channels. Rural areas in Wisconsin are the most severely affected, some receiving less than five radio stations. For people living in and driving through these areas, this license transfer would represent a significant reduction in the number of channels available to meet their needs and will adversely impact the public interest.

I will be happy to provide you with any relevant information that I may have, and I would be pleased to assist the FCC in any way that may be useful.

Thank you again for your efforts in this important investigation.

Sincerely,



J.B. Van Hollen
Attorney General

JBVH:GJC:jjn

cc: Senator Herb H. Kohl
Senator Russell D. Feingold
U.S. Representative Tammy Baldwin
U.S. Representative Steven L. Kagen
U.S. Representative Ron Kind
U.S. Representative Gwendolynne S. Moore
U.S. Representative David R. Obey
U.S. Representative Thomas E. Petri
U.S. Representative Paul D. Ryan
U.S. Representative F. James Sensenbrenner, Jr.