

SIRIUS SATELLITE RADIO INC.
1221 Avenue of the Americas, 36th Floor
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XM RADIO INC.
1500 Eckington Place, NE
Washington, DC 20002

May 20, 2008

WRITTEN EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band - WT Docket No. 07-293; Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band - IB Docket No. 95-91, GEN Docket No. 90-357, RM-8610

Dear Ms. Dortch:

Sirius Satellite Radio Inc. ("Sirius") and XM Radio Inc. ("XM") (jointly, "the Satellite Radio Operators"), hereby submit a response to the May 19, 2008 *ex parte* letter from the WCS Coalition (the "Coalition Letter") regarding disagreements and differences between the Satellite Radio Operators and the WCS licensees as regards the technical issues in the above-captioned proceedings.¹ The Satellite Radio Operators strongly disagree with the technical discussion and rhetoric of the Coalition Letter. But rather than rebutting the misstatements in the Coalition Letter, we believe that it is time to move on. To that end, we wish to reiterate our belief that joint testing with the Commission's oversight would be the most effective mechanism to reconcile the technical discrepancies in these proceedings, resolve data issues, and expedite completion of the dockets in a manner that best serves consumers and the public interest.²

The Coalition Letter confirms the existence of numerous areas of disagreement between the WCS Coalition and the Satellite Radio Operators that could be resolved by conducting joint testing. For example, while the Satellite Radio Operators have presented evidence that overload interference from mobile WCS devices will cause significant interference to satellite radio reception,³ the WCS Coalition responds that the "risk of

¹ See Letter from Paul Sinderbrand, Counsel to the WCS Coalition to Marlene Dortch, Secretary, FCC, IB Dkt. No. 95-91, WT Dkt. No. 07-293 (filed May 19, 2008) ("Coalition Letter").

² See Letter from Patrick L. Donnelly and James S. Blitz, to Marlene Dortch, Secretary, FCC, IB Dkt. No. 95-91, WT Dkt. No. 07-293 (filed May 19, 2008)

³ See, e.g., Comments of Sirius Satellite Radio Inc., IB Dkt. No. 95-91, WT Dkt. No. 07-293, at 20-22 (filed Feb. 14, 2008)

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harmful interference due to overload is probabilistic, and that Part 25 and Part 27 rules can be crafted that limit power in a manner that minimizes overload under real world operating conditions without imposing material harm on WCS or SDARS.”⁴ Joint testing will allow the parties, with Commission oversight, to agree on a set of parameters and tests establishing the extent of interference from WCS mobile devices to satellite radio subscribers and will provide the FCC with the technical facts to decide this proceeding.

As the Coalition Letter also notes, the parties disagree on the extent to which satellite radio terrestrial repeaters will impact WCS base stations.⁵ Again, joint testing will be helpful to resolve these issues. Joint testing will allow the parties to consider the effect of satellite radio transmission on actual or prototype WCS equipment developed by the WCS Coalition’s members and previously unavailable to the Satellite Radio Operators. The results of these tests will assist the Commission with formulating final rules in these dockets.

Although Sirius and XM stand by our scientific and experimental data and anticipate confirmation through a joint testing program, we believe joint testing is the means the Commission should use to resolve any doubts and expedite the conclusion of these proceedings. The WCS Coalition has expressed its willingness to take part in joint testing under the Commission’s auspices,⁶ and Sirius and XM are willing to meet with the Commission and the WCS Coalition as soon as possible to discuss next steps in this matter.

⁴ Coalition Letter at 1-2. In making this argument, the WCS Coalition cites to a recent technical report that it submitted responding to evidence that it ignored the effects of potential overload interference in its previously filed comments – a report with which Sirius and XM disagree, but nonetheless believe that such disagreement could be resolved through joint testing. *See* Letter from Paul J. Sinderbrand, Counsel to WCS Coalition, to Marlene H. Dortch, Secretary, FCC, IB Dkt. No. 95-91, WT Docket No. 07-293 (filed May 9, 2008).

⁵ Coalition Letter at 7-8.

⁶ *See* Letter from Paul Sinderbrand, Counsel to the WCS Coalition to Marlene Dortch, Secretary, FCC, IB Dkt. No. 95-91, WT Dkt. No. 07-293, at 2 (filed May 13, 2008).

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Respectfully submitted,

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CC:

The Honorable Kevin J. Martin
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert M. McDowell
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