

I would like to respond to comments filed by Clear Channel on May 22. First, let me say that I commend their efforts to help in the Katrina disaster.

With regards to the XM-SIRIUS merger, Clear Channel makes the following remark:

"Specifically, the companies can and do broadcast indecent audio programming which has been fined on local radio."

This is no different than the situation found between pay cable television, and local network affiliate stations. This precedent is well established. Pay entertainment, and free "over the waves" entertainment are, and should be, governed by rules defined for each of these media types. Their comment is not relevant to the discussion of the merits of the merger.

Further, Clear Channel makes the following comment:

"In addition, a satellite monopoly would control more spectrum than all of FM and AM radio combined."

The satellite radio duopoly already controls this spectrum. The amount of spectrum not controlled by FM and AM radio channels is the same with and without the merger. The reference to the amount of spectrum is clearly an attempt to influence the FCC into placing punitive restrictions on the satellite radio companies, in order to lessen their competitive abilities relative to AM/FM.

Then Clear Channel goes on to say:

"The merged company would enjoy a dual revenue stream and could easily outbid local radio for talent and programming, and erode our advertising base."

This is no different than the relationship between national cable television operations and local television outlets. National cable channels have programs featuring Bill O'Reilly, Larry Kudlow, Jim Cramer and a host of others who are beyond the reach of local

television station budgets. That is the nature of the television landscape. I sympathize that local AM/FM has not had that level of competition for talent prior to the advent of satellite radio, but the day of that competition has arrived, and it should not be the job of the FCC to protect AM/FM from the evolution of this competition. Would it have been appropriate for the FCC to place restrictive burdens on telephone companies in order to shield telegraph companies from the challenges of facing the competition of newer technologies? The answer is obviously, no.

Clear Channel concludes by:

"Were the FCC to determine that the creation of a satellite goliath is in the public interest, it would be nothing more nor less than government intervention in favor of one company and one pay technology to the detriment of thousands of local broadcasters, free, over-the-air radio and the listening public."

Notwithstanding the fact that a media company that would currently only reach 17 million listeners should hardly be considered a "goliath", is it not more appropriate that the FCC should protect the rights of an emerging company faced with competition from thousands of over-the-air broadcasters, owned by media conglomerates who have had decades to establish and entrench themselves in the broadcasting and advertising industry? The reality is that the radio broadcast industry is a united entity on this issue with far more resources than a combined XM-SIRIUS. Let them use those resources to prove that they deserve the listenership they currently enjoy, instead of asking the FCC to cripple this potential merger.