

im submitting this formal complaint via email, for the record in 95-91 and 07-57

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It should also be noted I fully support the petition filed.By Mr Micheal Hartleib in 07-57 and wish my reply comments on the subject petition defined below entered into the record of 07-57

Kevin J. Martin,Chairman

Michael J. Copps,Commissioner

Jonathan S. Adelstein,Commissioner

Deborah Taylor Tate,Commissioner

Robert M. McDowell,Commissioner

I'm in full agreement, with the position and request via the petition, for a declaratory ruling made by Mr Micheal Hartleib.Including the full and immediate release of all related information to the public.Supplied to the FCC by named or un-named parties, including all others and or third parties not mentioned.

In the Matter of

Petition for Declaratory Ruling

By Michael Hartleib MB Docket No. 07-57

RE: FCC Rule 47 CFR Sec. 25.144(a)(3)(ii))

PETITION FOR DECLARATORY RULING TO CLARIFY THE LACK OF ENFORCEMENT AND IMPLEMENTATION OF THE INTEROPERABLE MANDATE FCC Rule 47 CFR Sec. 25.144(a)(3)(ii)

http://svartifoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519540186

Michael Hartleib respectfully petitions the Commission for a declaratory ruling to

clarify the lack of enforcement and implementation of the interoperable mandate FCC Rule 47 CFR Sec. 25.144(a)(3)(ii) requiring the receiver designs to be capable of receiving ALL channels allocated by the FCC for the satellite digital audio radio

services (SDARS).

which may be required by statute within

17 COMMUNICATIONS ACT OF 1934 Sec. 4 (j) ,(i)

(j) The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest. Any party may appear before the commission and be heard in person or by attorney. Every vote and official act the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested. The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense.

(l) All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have

complained, and to any common carrier or licensee that may have been

complained of.[/b

Its my perception based upon review of some specific FCC documents. The devices should have been made available to the public at the consumer level prior to the close of calendar year two thousand four. based solely on the milestone requirements quoted in the original order below ,Which states specifically a time frame for full implementation of the specified satellite services. which includes dual and or inter-operable devices. Which when made available to the automotive manufactures along with the CEA device areas,on a fully equal basis will the public interest be served by the FCC and or satellite service providers.

I urge the FCC, to fully enforce implementation immediately of the mandated inter-operable and or dual devices. prior to the approval of this merger, which I fully support as its in the publics best interest. the satellite radio services also compete with a ever growing landscape which was qualified by the FCC in section 78 as being (other aural) and then defined by the FCC in section 77 of the original order below.

(section 77) In the Notice, we pointed out that "satellite DARS will face competition from terrestrial radio services, CD players in automobiles and homes, and audio services delivered as part of cable and satellite services," and asked whether these delivery media, coupled with fewer than four DARS providers, could ensure an effectively competitive audio services market.134

(section 78)least two service providers will help ensure that subscription rates are competitive as well as provide for a diversity of programming voices. The two DARS licensees will compete against each other for satellite DARS customers and will face additional competitive pressure from the "other aural delivery media mentioned above".

The advent of other aural broadcast and or music services. like cell-phones. ipods ,Internet ,slacker,hdradio coupled with wi-fi and wimax alone should warrant the merger. without mention of the white space devices that will deliver audio content ,video, and or music directly to the auto along with other consumer aftermarket devices by 2009

Aural defined below

1847, "of or pertaining to the ear," from L. auris "ear" (see ear (1)).

Meaning "received or perceived by ear" is attested from 1860.

American Heritage Dictionary - Cite This Source au·ral 1 (ôr'cl)

Pronunciation Key

adj. Of, relating to, or perceived by the ear.

I further urge you weigh carefully the full effects of the other aural or media services, on the traditional radio broadcasters. while reviewing the comments made by the nab along with the related broadcaster filings under

07-57 its clear they have singled out a sole small platform to blame for the failure of a industry they controled for seventy years.

FCC Clearly Defined The Time-line for full service.

This section below, clearly defines the time line for full operational services. which include the the dual and or inter-operable receivers as mandated.

<http://wireless.fcc.gov/auctions/15/releases/fc970070.pdf>

section 110

Because of the long lead time necessary for satellite construction, we proposed that satellite DARS licensees begin construction of their space stations within one year, launch and begin operating their first satellite within four years, [b]and begin operating their entire system within six years.

We also proposed that licensees file annual reports on the status of their systems.

The current applicants support the rules proposed in the Notice.202

Accordingly, we adopt the requirements as proposed.

(3) Technical Qualifications: In addition to the information specified in paragraph

(a)(1) of this section, each applicant shall:

(i) demonstrate that its system will, at a minimum, service the 48 contiguous statesof the United States (full CONUS);

(ii) certify that its satellite DARS system includes a receiver that will permit

end users to access all licensed satellite DARS systems that are operational or under construction; and/or

(iii) identify the compression rate it will use to

transmit audio programming. If applicable, the applicant shall identify the compression rate it will use to transmit services that are ancillary to satellite DARS.

(b) Milestone Requirements.

Each applicant for system authorization in the satellite digital audio radio service must demonstrate within 10 days after a required implementation milestone as specified in the system authorization, and on the basis of the documentation

contained in its application, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional

information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. This showing shall

include all information described in § 25.140 (c), (d) and (e). The satellite DARS

milestones are as follows, based on the date of authorization:

(1) One year: Complete contracting for construction of first space station or begin space station construction; Federal Communications Commission FCC 97-70

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(2) Two years: If applied for, complete contracting for construction of second space station or begin second space station construction;

(3) Four years: In orbit operation of at least one space station; and/or

(4) Six years: Full operation of the satellite system.

The two links below placed sirius and xmsr both on notice for the perceived failure to launch the mandated devices. In early two thousand five, two and a half years later the public still waits for the combined "dual" devices to manifest.

http://svartifoss2.fcc.gov/servlet/ib.page.FetchAttachment?attachment_key=560827

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-05-180A1.pdf

11. Second, an SDARS applicant must certify that its system includes a receiver that will permit end users to access all licensed SDARS systems that are operational or under construction.³⁴ This requirement will allow consumers to access services from all licensed SDARS systems using a single receiver.³⁵ In its applications, XM Radio does not certify that its system currently includes such a receiver, but refers to a letter from XM Radio to the Commission dated October 6, 2000, which XM Radio asserts provides notice of its “continuing program to develop an inter-operable satellite radio receiver.”

³⁶ In the October 6 Letter, the two SDARS licensees announced an agreement to develop a unified standard for satellite radios, and stated their anticipation that inter-operable chips capable of receiving both services would be produced in volume in mid 2004.³⁷ The two companies also agreed to introduce interim inter-operable radios, prior to the introduction of fully-inter-operable chipsets, that would include a common wiring harness, head unit, antenna, and an interchangeable trunk-mounted box containing processing elements for both company’s signals.³⁸

(...continued from previous page)

³⁰ The other eligible entity that was awarded an SDARS license at auction is Sirius

Satellite Radio Inc. (formerly

Satellite CD Radio). See also Public Notice, “FCC Announces Auction Winners for Digital Audio Radio Service,”

DA 97-656 (Apr. 2, 1997). The two SDARS licensees paid a combined total of \$173.2 million for the two licenses.

31 47 C.F.R. § 144(a)(3).

32 47 C.F.R. § 144(a)(3)(i); see also 1997 SDARS Order, 12 FCC Rcd at 5793-94 (paras. 97-99).

33 XM Radio Modification Application at 26.

34 47 C.F.R. § 144(a)(3)(ii).

35 See 1997 Authorization Order, 13 FCC Rcd at 8846 (para. 38), citing 1997 SDARS Order, 12 FCC Rcd at 5797 (para. 106).

36 XM Radio Modification Application, Appendix A at 26, citing Letter from John R.

Wormington, XM Radio Inc., and Robert D. Briskman, Sirius Satellite Radio Inc., to Magalie Roman Salas, FCC, dated Oct. 6, 2000 (October 6 Letter).

37 October 6 Letter at 4.

38 October 6 Letter at 4. We take note of the fact that since the October 6 Letter

both XM Radio and Sirius have introduced tuners that will allow satellite radio-ready headsets offered by third-party consumer electronic manufacturers to receive the signals of both SDARS licensees. See Sirius Press Release, “Sirius and Pioneer Offer Tuner for Satellite Radio: New Tuner Compatible with SAT-Ready Head Units from Pioneer”, dated January 5,

2005, available on-line at:

<http://www.sirius.com/servlet/ContentServer?pagename=Sirius/CachedPage&c=PresReleAsset&cid=110477964373>

3; see also XM Radio Press Release, "XM Satellite Radio Introduces XM Direct:

Universal Tuner for Car Stereos Now Available for Third-Party Developers, Distributors," dated November 17, 2003,

available on-line at:

http://www.xmradio.com/newsroom/screen/pr_2003_11_17.html.

Federal Communications Commission DA 05-180

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12. We observe that some time has elapsed since the October 6 Letter was initially filed with the Commission. Accordingly, to refresh the record, we will send letters to XM Radio and Sirius requesting that they provide the current status of their efforts to develop an inter-operable receiver, and that they provide a clear timeframe for making such an inter-operable receiver available to the public.

Other supporting indicators filed by third-parties

Other documents (three) recently filed by third parties. under 07-57 confirm Mr

Hartleibs position indirectly, based solely on the limited amount of information

released to the public do to the nature of the legal system and the pending litigation.along with the recently issued protective order issued by the Fcc under 07-57.one such filing is below.

7/17/07

Notices of Ex Parte Communication filed by U.S. Electronics, Inc.

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=651

9558475

Related patents disclose Firmware updates available for hardware configuration over the air as stated by Mr. Hartleib.

United States Patent Application: 0050202808

Inventors: Fishman, David A.; (Lakewood, NJ) ; Jones, Raymond K.; (Voorhees, NJ) ; Stillwell, Anthony J.; (Somerville, NJ) ; Zhong, Eric E.; (East Brunswick, NJ)

Correspondence Name and Address: SYNNESTVEDT & LECHNER LLP-AGERE

1101 MARKET STREET SUITE 2600 PHILADELPHIA PA 19107-2950 US

Assignee Name and Address: Agere Systems Inc. Allentown PA

Serial No.: 993303 Series Code: 10 Filed: November 19, 2004

U.S. Current Class: 455/419 U.S. Class at Publication: 455/419 Intern'l Class: H04M 003/00

[0005] Satellite radio receivers utilize various combinations of software and firmware to facilitate

receiving, tuning, playback and other functions. As is well known, firmware is the combination of a

hardware device (e.g., a memory) and computer instructions or computer data (or software) that reside on the hardware device. The computer instructions/data are referred to as a "software image" or "firmware image". The software image is loaded into non-volatile memory so that the receiver can properly boot up when power is applied. When booted, the device is configured for use and ready to process external stimuli and perform the function it is intended for.

[0006] It should be noted that this disclosure is not limited to the efficient download of firmware images alone, but may be applied to any configuration image which is typically stored in non-volatile memory, such as the hardware configuration bit files for a Complex Programmable Logic Device (CPLD) or Field Programmable Gate Array (FPGA). CPLD and FPGA devices utilize a form of non-volatile memory, on or off-chip, to store the hardware configuration data.

[0007] This disclosure will use the term "firmware image" to refer to software, firmware, or hardware configuration data alike.

I hope the full commission will respond in the public's interest on this issue collectively and force full disclosure of all related facts prior to any action on the merger.

It looks as if your past efforts have failed, to produce closure of this very small issue. The FCC collectively had a good plan for satellite radio prior to launch.

I honestly hope you can get Sdars back on your plan..

tim wallick