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June 25, 2008

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

Re: MB Docket No. 07-57, Consolidated Applications for Authority to Transfer  
Control of XM Satellite Radio Holdings Inc. and Sirius Satellite Radio Inc.  
***Ex Parte Presentation***

Dear Ms. Dortch:

This is to notify you that on June 24, 2008, Chester C. Davenport, Managing Director of Georgetown Partners L.L.C.; Cleveland A. Christophe, Managing Partner of TSG Capital Group; David Rivkin of Georgetown Partners; and the undersigned met with Commissioner Robert McDowell, Angela Giancarlo, Cristina Pauzé, Nick Campisano and Joanna Ng. Georgetown's discussion was consistent with its filings previously submitted in this docket and strongly urged that the proposed merger be denied.

Georgetown discussed the complete absence of public interest benefits in the commitments proposed by Sirius and XM that are reported to have been incorporated into a draft order circulated to the Commissioners by Chairman Martin. Whether considered individually or as a whole, the commitments fail to address the harm inherent in approving a single-provider monopoly in the satellite digital audio radio service ("SDARS") and amounts to nothing more than a spectrum grab.

The Commission should reject outright this attempt to hijack the entirety of the SDARS spectrum and enforce its longstanding rule against merger of the only two licensees in this service. This prohibition was adopted well before the original licenses in this service were awarded, XM and Sirius bid for the licenses knowing of the permanent prohibition against merger and undoubtedly established their bid price knowing that they were forever prohibited from joining with the other licensee. The parties should not be permitted to now attempt to brazenly maneuver to change the rules of the game and reap the financial windfall of a monopoly when they paid the U.S. Treasury only for a license that was always to be subject to another competitor in the SDARS service.

Georgetown also emphasized that allowing the merger would do serious damage to the Commission's longstanding pro-competitive spectrum policy that multiple licenses be awarded within the same service to ensure competitive pricing for consumers, a diversity of voices, and to foster innovation. A duopoly in the cell phone service was broken up by the establishment of the Personal Communications Service (PCS) in 1994, and in 2002 the Commission rejected the

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proposed merger of EchoStar and DirecTV even though another multichannel video program distributor, cable television, directly competed with the two satellite video providers in most of the country.

Finally, it contravenes longstanding Commission enforcement policy to allow the merger to go forward without the resolution of longstanding enforcement proceedings that are pending against Sirius and XM. It is difficult to understand why the Commission would grant a monopoly to entities accused of harboring “executive and senior-level employees” who knowingly directed others to violate multiple FCC rules. These allegations have been under investigation by the Commission’s Enforcement Bureau for more than two years.

- Personnel of one licensee reportedly directed manufacturers to provide wireless transmitters for use with SDARS products that knowingly exceeded the Commission’s power limitations and caused harmful interference to another communications service.
- Sirius and XM are alleged to have illegally constructed and placed on the air hundreds of repeaters and towers.
- Both licensees failed to comply with the Commission’s requirements with regard to interoperable radios, notwithstanding that the requirement itself was adopted by the Commission in 1997, made an explicit condition of their licenses, and certifications were made to the Commission concerning compliance.

For the above reasons and those stated in our earlier filings, the Commission cannot make the requisite public interest finding without an effective remedy to the monopoly requested by Sirius and XM. The Commission must deny the merger and should do so immediately.

In accordance with Section 1.1206 of the Commission’s rules, 47 C.F.R. § 1.1206, this letter is being filed in the above docket.

Respectfully submitted,



David R. Siddall  
Counsel to Georgetown Partners L.L.C.