



June 20, 2008

The Honorable Kevin J. Martin  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: MB Docket No. 07-57**

Dear Mr. Chairman:

As you know from our previous filing, we have serious concerns with the potential merger of Sirius and XM satellite radio because of the harm that would be done to the public interest as a result of the creation of this national satellite radio monopoly. Were the Federal Communications Commission to approve the merger application, we respectfully suggest doing so only under conditions which would protect the public interest.

While we welcome the intention behind your support for a set-aside for non-commercial broadcasting on a merged XM and Sirius satellite radio service, 4 percent is simply not enough to serve the public interest and may in fact result in fewer public service channels on the merged entity than are on satellite radio today.

XM and Sirius currently broadcast a cumulative total of 12 channels, or 4 percent of their combined capacity, using content from non-commercial broadcasters and emergency services. Including commercial-free weather and traffic channels, that percentage increases. Therefore, your proposal will either maintain the status quo or result in less non-commercial public service content on satellite radio than exists today. The price of monopoly must not be so low.

We continue to believe that a meaningful portion of the satellite radio spectrum should be set aside for non-commercial public service broadcasting. This would follow precedent established by the FCC in 1945 when it set aside 20 percent of the FM band (88–92 MHz) for non-commercial broadcasters. It is only because of the Commission's foresight at that time that we have a robust non-commercial band on FM radio today.

We also understand that it would be beneficial to set aside a portion of the spectrum to ensure representation from minority broadcasters on satellite radio and that a channel or channels be available for emergency services.

**Therefore, we propose that 25 percent of the total satellite radio spectrum (SDARS) be set aside for non-commercial public service channels, minority broadcasters and emergency services.** The FCC should maintain control of the set-aside satellite spectrum and issue channel licenses to non-commercial and minority broadcasters, much as it does the terrestrial FM spectrum.

The FCC regulation of this spectrum should include:

- Assuring that all channels in the set-aside spectrum (commercial or non-commercial) be subject to a public interest standard
- Reserving no less than 50 percent of the total set-aside for non-profit organizations who will operate channels on a non-commercial public service basis (with the proviso that channels not allocated to or used for the other set-aside purposes would be reallocated for this purpose)
- Assuring that non-commercial and minority-owned channels in the 25 percent set aside are allocated sufficient spectrum to ensure audio quality equal to the highest quality audio channels provided by XM/Sirius
- Providing use of the channels to the licensed non-commercial public service broadcasters free of charge, so long as they provide the signal to the XM/Sirius origination center
- Issuing licenses with an eight-year renewal period and an expectation of renewal, in the same manner as terrestrial radio licenses
- Assuring that the set-aside non-commercial public service channels are available to consumers free of charge (i.e. not subject to an XM/Sirius subscription)

A cumulative 25 percent set-aside for non-commercial public service and minority broadcasting is not unreasonable given the monopoly that would be granted to XM and Sirius as part of its merger approval. This is a spectrum merger in addition to a business merger and the cost of allocating all satellite radio spectrum to one entity must have a clear public service set-aside. In fact, the non-commercial and minority broadcasters' content will increase the breadth and depth of satellite channels, encourage millions of listeners to purchase satellite radios and offer XM/Sirius a platform to attract new subscribers.

We agree with our colleagues at NPR (National Public Radio) that an additional condition for merger approval should require the inclusion of HD Radio technology in all new satellite radio receivers. This would further protect the public interest by encouraging competition in the digital terrestrial broadcasting marketplace and leverage the millions of federal dollars already invested in the conversion of non-commercial stations to HD Radio technology throughout the country.

The Honorable Kevin J. Martin

June 20, 2008

Page 3

As we have stated in previous filings, dedicating a significant block of the satellite radio spectrum to programming outside the financial and editorial control of a combined XM and Sirius business and spectrum monopoly will benefit the public interest. By maintaining control of the set-aside spectrum, the FCC will have the oversight authority necessary to ensure that there is a diversity of voices and opinions on satellite radio, and that it contributes to the health of our democracy.

Sincerely,

A handwritten signature in black ink that reads "Bill Kling". The signature is written in a cursive, flowing style.

William H. Kling  
President and CEO

cc: Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein  
Commissioner Deborah Taylor Tate  
Commissioner Robert M. McDowell

Attachment: List of current public service channels on XM and Sirius Satellite Radio

**Current Public Service Channels on XM and Sirius Satellite Radio**Non-Commercial/ Public  
Service ChannelsCommercial-Free Traffic &  
Weather Channels

	<b>Company</b>	<b>Channel</b>	<b>Service</b>
1	XM	131	BBC World Service
2	XM	132	C-SPAN Radio
3	XM	133	XM Public Radio
4	XM	247	XM Emergency Alert
5	Sirius	134	NPR Now
6	Sirius	135	NPR Talk
7	Sirius	SIR-1	NPR
8	Sirius	137	CBC RadioOne
9	Sirius	138	Premier Plus
10	Sirius	140	World Radio Network (WRN)
11	Sirius	141	BBC World Service
12	Sirius	184	Sirius Weather and Emergency
13	Sirius	185	Canada Weather
14	Sirius	148	New York Traffic & Weather
15	Sirius	149	Boston/Philadelphia Traffic & Weather
16	Sirius	150	Los Angeles Traffic & Weather
17	Sirius	151	Chicago/St. Louis Traffic & Weather
18	Sirius	152	Washington DC/Baltimore Traffic & Weather
19	Sirius	153	Atlanta/Miami Traffic & Weather
20	Sirius	154	Dallas/Houston Traffic & Weather
21	Sirius	155	Detroit/Las Vegas Traffic & Weather
22	Sirius	156	San Francisco/Seattle Traffic & Weather
23	Sirius	157	Phoenix/San Diego Traffic & Weather
24	Sirius	158	Tampa/Orlando Traffic & Weather
25	XM	210	Boston, MA Traffic, Weather & Alerts
26	XM	211	New York, NY Traffic, Weather & Alerts
27	XM	212	Philadelphia, PA Traffic, Weather & Alerts
28	XM	213	Baltimore, MD Traffic, Weather & Alerts
29	XM	214	Washington, DC Traffic, Weather & Alerts
30	XM	215	Pittsburgh, PA Traffic, Weather & Alerts
31	XM	216	Detroit, MI Traffic, Weather & Alerts
32	XM	217	Chicago, IL Traffic, Weather & Alerts
33	XM	218	St. Louis, MO Traffic, Weather & Alerts
34	XM	219	Minneapolis/St. Paul, MN Traffic, Weather & Alerts
35	XM	220	Seattle, WA Traffic, Weather & Alerts
36	XM	221	San Francisco, CA Traffic, Weather & Alerts
37	XM	222	Los Angeles, CA Traffic, Weather & Alerts
38	XM	223	San Diego, CA Traffic, Weather & Alerts
39	XM	224	Phoenix, AZ Traffic, Weather & Alerts
40	XM	225	Dallas,/Ft. Worth, TX Traffic, Weather & Alerts
41	XM	226	Houston, TX Traffic, Weather & Alerts
42	XM	227	Atlanta, GA Traffic, Weather & Alerts
43	XM	228	Tampa/St. Petersburg, FL Traffic, Weather & Alerts
44	XM	229	Orlando, FL Traffic, Weather & Alerts
45	XM	230	Miami/Ft. Lauderdale, FL Traffic, Weather & Alerts

Source: <http://www.xmradio.com/onxm/full-channel-listing.xmc>; <http://www.sirius.com/channelguide>