

July 18, 2008



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

RE: Notice of Oral *Ex Parte* Presentation
MB Docket No. 07-57 (Transfer of Control of XM Satellite Radio
Holdings Inc. and Sirius Satellite Radio Inc.)

Dear Ms. Dortch:

On July 17, 2008, Andrew Jay Schwartzman and Charles Fisher of Media Access Project (MAP) and Gigi B. Sohn, of Public Knowledge (PK) met with Commissioner Jonathan S. Adelstein; Rudy Brioché, Legal Advisor for Media Issues to Commissioner Adelstein; and Shawn Donilon, Legal Intern to Commissioner Adelstein. The purpose of the meeting was to discuss the proposed merger of XM Satellite Radio with Sirius Satellite Radio.

MAP/PK discussed with Commissioner Adelstein, Mr. Brioché and Mr. Donilon possible conditions to be placed on the merger that would safeguard the public interest. Many of the issues raised by MAP/PK had previously been presented in their July 11, 2008 letter to the Chairman Martin. That letter discusses shortcomings that MAP/PK perceive in the "voluntary commitments" set forth in XM/Sirius' June 13, 2008 letter to the Chairman. Three topics covered in the meeting included: 1) open device requirements; 2) enforcement issues and 3) non-commercial set-aside.

With regard to the open device requirements, MAP/PK expressed their concern on several issues. MAP/PK expressed the importance that the technical standards are open to third parties. MAP/PK expressed opposition to the one year moratorium on licensing the technology that is set forth in the June 13, 2008 letter, and argued that any moratorium should last no more than sixty-days from the date that the merger is approved. MAP/PK expressed the importance that XM and Sirius not control the approval of devices proposed in the June 13, 2008 letter. MAP/PK also argued that approval of devices be supervised by an independent testing lab. MAP/PK expressed the view that mandating HD chips was less important than insuring complete openness because third party manufacturers would almost certainly include HD chips

Pertaining to enforcement, MAP/PK expressed the importance of having an independent monitor oversee the merged company. As precedent, MAP/PK pointed to the FTC's use of such an officer in assuring compliance with the AOL/Time Warner merger conditions. They also noted that a "Corporate Compliance Officer" was put in place for the AT&T/Comcast merger; they argued that the Commission, not the company, should select the officer.

MAP/PK also discussed the size and structure of the non-commercial set-aside they have proposed. MAP/PK requested that the Commission not use full time audio channels as the way of calculating the percentage of non-commercial set-aside channels. MAP/PK suggested that the Commission use as the DBS set aside rules as a guideline. In addition, MAP/PK recommended that as a minimum the set-aside be either five percent all new programming with one programmer per channel or ten percent with one programmer per channel but allowing for present set-aside programming to count for up to five percent of the ten percent total.

Pursuant to Section 1.1206(b), 47 C.F.R. §1.1206(b) of the Commission's rules, this letter is being filed electronically with your office today.

Respectfully submitted,

/s/Andrew Jay Schwartzman

Andrew Jay Schwartzman
President and CEO
Media Access Project

cc: Commissioner Jonathan S. Adelstein
Rudy Brioché
Shawn Donilon