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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

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

Dear Ms. Dortch:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, and the Commission's Public Notice dated March 29, 2007 (DA 07-1435), I respectfully submit the following comments.

I have been advised that the FCC intends to downplay the failure of the companies' lack of compliance with the Interoperable Mandate to provide end users with receivers capable of receiving all SDARS services, either built or under construction. I'm troubled and dismayed that this could even be considered given the gravity and importance of the Interoperable Mandate and the considerable time delay it has caused the Commission.

Twenty million dollars is no small fine, in fact, it may be one of the largest fines ever levied by the FCC. The irony that because the FCC has failed their obligation to the public for nearly a decade, they or the US Treasury will be rewarded twenty million dollars. Now that is irony at its best. I would also argue that tolling or fining these two companies does nothing more than damage the shareholders as they will be the ones that foot the bill and quite possibly, consumers of satellite radio, that may be burdened for higher priced equipment to circumvent the monthly service fee caps agreed to by the two companies; thereby damaging consumers even further. Fining these companies and placing the burden on their shareholders does nothing to prevent or dissuade management of XM and Sirius or any other companies that choose to willfully violate FCC mandates as it simply becomes nothing more than a cost of doing business. The executives who made the decisions to willfully violate the

rules and mandate are not held accountable in any way. This is not just or adequate restitution as the shareholders were not responsible for the misdeeds of the executives of these two companies. I urge you to rethink this strategy and hold the true perpetrators responsible for their actions.

I am advised the FCC intends to “play up” the fact that the fine is for FM modulator violations as well as transmitter violations. The Commission is being disingenuous to even present such a ridiculous position as the importance of the two infractions pales in comparison to the willful violation and orchestrated effort by these two companies to prevent and preclude consumers of the knowledge of or access to interoperable devices. This is much more than an infraction. The Interoperable Mandate is at the heart of the licensees requirements to hold said licenses. If the FCC intends to ignore the Interoperable issue and does not acknowledge that this substantial fine is an attempt to resolve the failure of these two companies to comply with their licensing requirements, the FCC will be complicit in the conspiracy perpetrated by these two SDARS companies to consolidate all of the SDARS spectrum rather than enable interoperability which would have been in the public’s best interest. As the Commission is aware, over eighteen months ago, I properly filed a Petition for Declaratory Ruling to clarify the lack of enforcement and implementation of the interoperable mandate. This Petition, in light of recent information acquired by C3SR and others was again resubmitted. I still have no answer as to my Petition and am told it still sits in the Enforcement Bureau. May I remind members of the Commission that your mandate is to protect the public’s interest, not to promote self-serving interest for political gain?

I would like to advise the Commission that I have recently filed a racketeering suit against both XM and Sirius and Interoperable Technologies (the joint venture formed and co-owned by Sirius and XM to develop and market interoperable radios). The Commission will look quite foolish when the protective orders are not in play and the unredacted versions of the documents proving the willful intent of these two companies to mislead consumers, the Commission and their shareholders. If the Commission does not disclose their findings surrounding the Interoperable Mandate, I will be forced to include the FCC as co-conspirators in the aforementioned racketeering suit and also seek an Appeal from the District Court of DC. I hope that all of the Commissioners have had an opportunity to review the racketeering suit that is now filed in Federal Court as it was provided to Commissioner Tate and requested that she forward it to the other Commissioners. The date that Ms. Blakenship received a copy of the Complaint was July 9, 2008. Interestingly, the first meetings with counsel for both companies and the Enforcement Bureau attended by Amy Blakenship was one day after on July 10, 2008. Commissioner Tate, I implore you to disclose this agency’s failures in protecting the public’s interest. Explain the lack of enforcement and compliance of the Interoperable Mandate before casting your deciding vote.

Respectfully,

Michael Hartleib