

ELECTRONIC DELIVERY VIA ECFS

July 25, 2008

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

Re: MB Docket No. 07-57
Notice of Ex Parte Presentation

Dear Ms. Dortch:

iBiquity Digital Corporation (“iBiquity”), by its attorneys, hereby notifies the Commission, pursuant to Section 1.1206 of the Commission's Rules, of a meeting held on July 24, 2008 with Chairman Martin and Elizabeth Andrion of Chairman Martin’s office. iBiquity was represented by Robert Struble (CEO) and Albert Shuldiner (General Counsel) of iBiquity, and the undersigned.

At this meeting, iBiquity reviewed its proposal to require satellite radios that are able to receive analog AM and FM signals also include the ability to receive the terrestrial digital radio signals specified in MM Docket No. 99-325. iBiquity explained that it did not believe the conditions proposed by XM and Sirius would facilitate the distribution of HD Radio receivers or the promotion of a competitive marketplace. It noted the following concerns with the proposals submitted in the June 16, 2008 Sirius/XM ex parte filing:

- *Delay* - the merged entity would not be required to license receiver manufacturers for one year from the merger. This will create an unacceptable period for the satellite entity to block HD Radio receivers from the market without any opportunity for manufacturers to develop dual mode devices. Given the three to five years lead time for OEMs to procure new radios and the existing arrangements already in place between OEMs and satellite radio companies it will not be until model year 2013 at the earliest that any impact of the proposed XM/Sirius condition will be felt in the marketplace.

- *Exclusive Arrangements* – Proposed conditions do not explicitly eliminate existing exclusive arrangements between satellite companies and receiver manufacturers, car companies or retailers. Satellite companies have pledged not to enter into *future* exclusive arrangements. Because XM and Sirius already have exclusive arrangements with virtually every automobile manufacturer (some until 2017), this condition is meaningless.
- *Chip Set Access* - The merged satellite company would not be required to open its chip sets or encryption technology. Receiver manufacturers would be required to obtain chips from chip manufacturers but the satellite companies have not made any commitment to require chip manufacturers to make chips available. The chip manufacturers could deny satellite chips for any radio that has both satellite and terrestrial and the FCC would have no recourse.
- *Indemnity Provisions* - The proposed conditions specify that manufacturers seeking to manufacture combined devices will be required to provide indemnifications of the satellite company. This could place a significant chill on the efforts to combine satellite and terrestrial radio technology. It is unclear whether manufacturers currently indemnify the satellite companies or whether this new requirement is being imposed to create new roadblocks.
- *Quality Assurance Tests* - The satellite company will require manufacturers to satisfy unspecified quality tests that can be updated from time to time. The combined entity could use this process to slow or block receivers that incorporate HD Radio technology. These standards should be specified by the FCC not the satellite companies.
- *Technical Design* – The proposed conditions will do nothing to insure that the design of a satellite radio receiver will be able to accommodate HD Radio technology. For instance, it will not insure that a sufficient number of ports in the dashboard unit are available to accommodate both satellite and HD Radio.
- *Enforcement* – There are no mechanisms to insure XM/Sirius ongoing compliance with any of the conditions proposed in the June 16, 2008 ex parte letter. At minimum, independent review and on-going reporting requirements are vitally important given the parties FCC compliance history.

A copy of this letter will be provided via e-mail to Mr. Chessen. Any questions regarding this matter should be directed to the undersigned.

Respectfully submitted,

/s/ Robert A. Mazer
Robert A. Mazer
Counsel for iBiquity Digital Corporation

cc: Chairman Martin
Elizabeth Andrion