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July 25, 2008

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VIA ECFS

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 Satellite Radio Holdings 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), please find attached for inclusion in the record of the above-referenced proceeding a copy of a letter Sirius Satellite Radio Inc. and XM Satellite Radio Holdings Inc. provided to Chairman Kevin Martin, Commissioner Michael Copps, Commissioner Jonathan Adelstein, Commissioner Deborah Taylor Tate, and Commissioner Robert McDowell today.

Sincerely,

/s/ Robert L. Pettit

Robert L. Pettit

cc: The Honorable Kevin Martin
The Honorable Michael Copps
The Honorable Jonathan Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert McDowell

July 25, 2008

The Honorable Kevin J. Martin
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert M. McDowell
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

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

Dear Mr. Chairman and Commissioners:

The record in the above-referenced proceeding provides clear evidence that the merger of Sirius Satellite Radio Inc. (“Sirius”) and XM Satellite Radio Holdings Inc. (“XM”) will benefit consumers and should therefore be approved promptly and without conditions. Sirius and XM have demonstrated that consumers will benefit substantially and the public interest will be served by approval of this transaction. The Commission should not impose conditions in this proceeding that will have the effect of reducing these public interest benefits. Sirius and XM have already agreed, in a June 13, 2008 letter, to implement voluntary commitments that leave no doubt that this merger is in the public interest.¹

Nevertheless, this letter is to inform you that, if the merger is approved, the combined company will implement the voluntary commitments described below, which supplement or clarify the voluntary commitments described in the companies’ June 13, 2008 letter. As with the prior voluntary commitments, these commitments are being made to further demonstrate that the merger is in the public interest and in the interest of facilitating the speediest possible approval of the merger by the Commission.

Satellite Radio Terrestrial Repeater/WCS Proceedings. The Commission first commenced a proceeding to establish rules for satellite radio terrestrial repeaters in 1997.² The successor to that original proceeding is still pending.³ Sirius and XM have

¹ See Letter to Kevin J. Martin, Chairman, FCC from Richard E. Wiley, Counsel to Sirius and Gary M. Epstein, Counsel to XM, MB Dkt. No. 07-57 (filed June 16, 2008) (“Voluntary Commitments”).

² *Establishment of Rules and Policies for the Digital Audio Radio Service in the 2310-2360 MHz Band*, Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 12 FCC Rcd 5754 (1997).

participated at every step of those proceedings in good-faith; the companies have submitted thousands of pages of pleadings, several engineering studies and even proposed rules.⁴ Sirius and XM believe that testing with FCC oversight can quickly bring these proceedings to a conclusion. Accordingly, the combined company will commit to provide the Commission whatever assistance it requests to allow the Commission to oversee such testing and resolve these proceedings by the end of 2008.

Interoperable Receivers. Sirius and XM clarify that immediately after the merger, the combined company will make the design and the specifications for an interoperable radio available for license to equipment manufacturers in accordance with the companies' commitment contained in Sirius' and XM's June 13, 2008 *ex parte* letter. Moreover, within nine months of the consummation of the merger, the combined company will offer for sale an interoperable receiver in the retail after-market. This accelerates the companies' previous voluntary commitment to do so within one year.

Local Programming and Advertising. Sirius and XM have committed, and reiterate their commitment, not to originate local programming or advertising through their repeater networks.⁵

Copyright Royalty Payments. In accordance with the Copyright Act, both Sirius and XM pay millions of dollars in royalties in connection with their public performance of sound recordings.⁶ The combined company's a la carte and other programming proposals were not intended, and are not anticipated, to reduce revenue from copyright royalty payments. They were designed to provide more choice and lower prices and hopefully increase revenue, which should have a positive effect on copyright royalty payments to artists and record companies.

Rates. Sirius and XM clarify that the combined companies' June 13, 2008 "Rates" voluntary commitment establishes a price freeze lasting thirty-six months for the combined company's basic \$12.95 per month subscription package, the a la carte programming packages described in paragraph 1 of the June 13, 2008 letter, and the new programming packages described in paragraphs 2, 3, and 4 of the June 13, 2008 letter, except for a pass through of certain cost increases. This does not affect any FCC authority to review this price freeze prior to its expiration.

³ *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band, Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, WT Docket No. 07-293, IB Docket No. 95-91, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 22 FCC Rcd 22123 (2007).

⁴ Neither Sirius, XM nor, to the knowledge of the companies, the FCC has ever received an interference complaint from a WCS licensee relating to a satellite radio terrestrial repeater.

⁵ See *Sirius Satellite Radio Inc.*, DA 01-2171, ¶¶ 10-11 (Sept. 17, 2001); *XM Radio Inc.*, DA 01-2172, ¶¶ 10-11 (Sept. 17, 2001).

⁶ 17 U.S.C. §§ 106(6); 114(d)(2); 114(f)(1).

Equipment Non-Exclusivity. Sirius and XM have not entered into any agreement that would bar, or have the effect of barring, a car manufacturer or other third party from including non-interfering HD radio chips, iPod compatibility, or other audio technology in an automobile or audio device. Sirius and XM have not entered into any agreement to grant, or that has the effect of granting, a device manufacturer an exclusive right to manufacture, market and sell equipment that can deliver the company's satellite radio service. Following the consummation of the merger, the combined company will not enter into any agreement that grants, or that would have the effect of granting, a device manufacturer an exclusive right to manufacture, market and sell equipment that can deliver the company's satellite radio service. This supplements XM's and Sirius' June 13, 2008 voluntary commitment. Sirius and XM also clarify their June 13 letter that they will provide, on commercially reasonable terms, the intellectual property "to permit any device manufacturer to develop equipment that can deliver the company's satellite radio service." The encryption, conditional access and security technology is embedded in chip sets that can be purchased from third party manufacturers.

Public Interest Channel Set Asides. To clarify the commitment contained in Sirius' and XM's June 13, 2008 letter, Sirius and XM will not select a programmer to fill more than one non-commercial, educational or informational channel on each of the Sirius and XM platforms as long as demand for such channels exceeds available supply.

If you have any questions, please do not hesitate to contact us.

Sincerely,

/s/ Richard E. Wiley

Richard E. Wiley

Counsel for Sirius Satellite Radio Inc.

/s/ Gary M. Epstein

Gary M. Epstein

Counsel for XM Satellite Radio Holdings Inc.