

07-57

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FILED/ACCEPTED

July 16, 2008

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The Honorable Kevin J. Martin, Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Federal Communications Commission
Office of the Secretary

Re: Written Ex Parte Presentation in MB Docket No. 07-57, Consolidated Applications for Authority to Transfer Control of XM Satellite Radio Holdings, Inc., and Sirius Satellite Radio Inc.

Dear Chairman Martin:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. §1.1206, AlphaStar (www.alpha.star.com), an FCC-licensed satellite provider and one of the first direct-to-home satellite Television Broadcasting service in the United States, respectfully submits these comments in the above-named docket for the limited purpose of: (1) briefly commenting on the shared spectrum carve-out proposal; and (2) presenting its capabilities to the Commission to deliver programming from underserved markets, including minorities, women, small businesses and noncommercial entities in conjunction with the merged companies. Expressly, AlphaStar posits that should the Commission elect to approve the merger between XM Radio and Sirius, it should indeed require as a condition of the merger that a certain percentage, at least 20%, of the combined capacity of the merged entity be leased on a commercial basis to an independent entity. As stated by other parties in this docket, the effect of the consolidation of these two behemoth entities will be a potential loss in diversity of programming, increased prices and a diminution in the range of media owners. While not a complete solution to the anti-trust and consumer protection concerns, a partial divestiture or leasing of a minimum 20% of the spectrum licenses would go far to allay some of the anti-competitive potential of the proposed merger. Indeed, the proposed 24 channels falls short of the ideal scenario and in fact should be dramatically increased to allow more real and viable competition and alternatives.

An independent entity should be selected or permitted to administer leased space on the merge entities' network; such an entity should have the infrastructure and technological facilities to effectively do so. Currently, AlphaStar, a small company, provides uplink facilities that could facilitate direct-to-home satellite radio, audio, video broadcasting and streaming via the internet. It has the capability to offer atwo-way satellite broadband through a technology that connects multiple fiber optic lines to several terrestrial backbone providers. It also has transmission capabilities to accommodate up to 500 TV stations and thousands of audio and radio channels over satellite that can be delivered to North and South America, Europe, the Caribbean, Latin America, the Middle East, and Africa. AlphaStar is also one of very few companies prepared, capable, staffed and equipped to facilitate the administration of a leased access merger condition. If it were able to lease a significant portion of the merged entities capacity, Alphastar would devote its facilities and services exclusively to minorities, women, small business, and noncommercial programmers.

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AlphaStar's communications teleport was originally built for the United States government as part of a strategic defense initiative, President Reagan's "Star Wars" program. The teleport was designed according to military specifications including, complete redundancy, climate controls, secret rooms, and the ability to withstand a direct attack. It was intended to protect the US by tracking the former Soviet Union's satellites and missiles. As a result, the teleport is geographically located to serve as a gateway to the world where it can downlink and uplink satellite feeds from most countries around the globe. As previously stated, it was also one of the original four Direct-To-Home (DTH) satellite television broadcast companies that included DirecTV, EchoStar, and PrimeStar. Today, essentially, it is believed to be one of only a dozen facilities in the world with the capacity as a broadband satellite backbone facilitator.

Consequently, AlphaStar, could best able to encode, transport and deliver both commercial and non-commercial educational programming to the merged entity at the designated location(s), a point of concern for consumer advocacy groups Media Access Project and Public Knowledge, in their communication to the Commission in this docket.

AlphaStar's current active technological capabilities should provide the Commission with some solace about how soon the leased capacity could be implemented, in case it goes forward and approves the XM-Sirius merger. AlphaStar is prepared to lease a significant portion of a merged entity, and if the Commission is considering rewarding the administration of such lease carve out in a competitive bidding scenario; it can also access financial resources and will be prepared to participate. Finally, AlphaStar's communication today is to support the furtherance of the broad FCC goal and mandate to add, rather than minimize, the diversity of media voices and to allay the fears that a carve out would not indeed be costly and administratively difficult to manager. AlphaStar invites the Commission to allow it to further exhibit and present its technology and capabilities as it considers its ultimate decision in this matter.

Sincerely,



Jeneba Jalloh Ghatt
Counsel to AlphaStar

Cc: Michael Barry, General Counsel
Monica Desai, Chief, Media Bureau
The Honorable Kevin J. Martin, Chairman
The Honorable Jonathan S. Adelstein, Commissioner
The Honorable Michael J. Copps, Commissioner
The Honorable Robert M. McDowell, Commissioner
The Honorable Deborah Taylor Tate, Commisioner