

June 4, 2009

VIA ELECTRONIC FILING

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

Re: Notice of *Ex Parte Presentation*
Media Bureau Docket No. 07-57

Dear Ms. Dortch:

On June 3, 2009, representatives of Howard University met with Rudy Brioché, Legal Advisor to Commissioner Jonathan Adelstein. Participating in the meetings on behalf of Howard University were Steven Harris, Senior Associate for Government Relations, Jim Watkins, General Manager of WHUR radio, and the undersigned.

The Howard University representatives discussed the University's vision of programming a nationwide simulcast channel on the Sirius XM network comprised of original entertainment and educational programming for the African American community using the resources of the University's commercial radio station, WHUR, and the University's HD radio and Internet-based programming capabilities.

A central focus of the discussion was the importance of retaining the original vision of the Sirius XM commitment by ensuring that Qualified Entities provide new and diverse programming to minority audiences in the United States. In this regard, the Commission should not broaden the scope of the Qualified Entity definition (such as through the use of the Small Business Administration's ("SBA") "Socially and Economically Disadvantaged Businesses" standard) without combining it with a requirement that Qualified Entities provide original and diverse programming on a fulltime basis to historically underserved audiences.

Further, the Commission should ensure that the definition of Qualified Entity does not inadvertently exclude applicants that are fully capable and ready to provide original and diverse programming to minority audiences. For example, the SBA classification, without alteration, could exclude Howard University and its commercial radio station, WHUR, from participating in the application process.

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In this regard, if the Commission retains the requirement that was adopted in the Sirius XM order that a Qualified Entity be majority minority-owned, the Commission should clarify that, in the case of an institution such as Howard University (which is not "owned" by anyone), it is sufficient for the applicant to be majority minority-controlled.

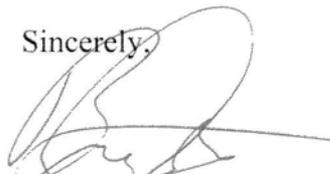
The Howard University representatives also expressed support for the adoption of basic, racially-neutral qualification requirements obligating applicants to demonstrate that they are ready and able to provide original and diverse programming to historically underserved audiences on a 24/7 basis using capacity on the Sirius XM network. Although these requirements should be rigorous, they should not be arbitrary, such as an arbitrary requirement that qualified applicants must own a certain number of radio stations in a certain number of markets. Further, many of the qualification requirements should be adopted as rebuttal presumptions, permitting applicants to demonstrate that, even though they may not satisfy one or more of the qualification requirements, they will still be able to provide promptly original and diverse programming to historically underserved audiences.

In addition, the Howard University representatives discussed the complexities of developing a process for selecting the applicants that would use the Sirius XM channels. The Howard University representatives urged the Commission to adopt a process that is not susceptible to judicial challenge on constitutional grounds because of the significant delays that judicial review would likely impose on distribution and use of the Sirius XM channels.

Finally, the Howard University representatives discussed whether an independent selection committee should be appointed to oversee the application and selection process, and whether that committee should be appointed by the Commission or by Sirius XM. The Howard University representatives acknowledged that the use of a selection committee, while highly desirable, may be too cumbersome and time consuming. Therefore, the Howard University representatives expressed the view that the most appropriate course of action may be for the Commission to direct Sirius XM to make the selections, just as Sirius XM already does with respect to its set-aside channels for noncommercial, educational and informational programming.

The attached talking points were distributed to the participants of the meetings and formed the outline for much of the discussion. Thank you for your attention to this matter. Please let us know if you have any questions.

Sincerely,



Bruce A. Olcott

**Proposed Procedures for Implementing
The Sirius XM Third-Party Access Commitment**

Howard University

MB Docket 07-57

June 3, 2009

- The Commission should preserve the original vision of the Sirius XM commitment by ensuring that Qualified Entities serve the needs of the minority community.
 - Qualified Entities must be required to provide original and diverse programming on a 24/7 basis to historically underserved audiences.
 - Preference should be given to entities with an educational mission and a plan to provide educational programming.
- The Commission should refrain from altering the definition of Qualified Entities in a manner that may inadvertently disqualify applicants that could serve the public interest.
 - The Small Business Administration's "Socially and Economically Disadvantaged Businesses" standard may disqualify applicants such as Howard University.
 - Even the standard that was adopted in the Sirius XM order that a Qualified Entity be majority minority-owned should be clarified to indicate that, in the case of an institution such as Howard University (which is not "owned" by anyone), it is sufficient for the applicant to be majority minority-controlled.
- The application process should not rely on potentially arbitrary selection methods.
 - Refrain from employing a lottery, auction, or a first-come, first-served process.
 - Refrain from giving preference either to entities that have no media ownership interests (which may not be capable of programming a channel), or to entities with large media holdings (which may not promote sufficient diversity).
- The Commission should adopt qualification requirements obligating applicants to demonstrate that they can provide original and diverse programming on a 24/7 basis.
 - Applicants should demonstrate they have the internal resources to produce original and diverse programming to serve historically underserved audiences.
 - Applicants should commit to commencing service shortly after lease award.
- Applicants should be permitted to apply for the right to program more than one channel, and to request access to simulcast channels on both the XM and Sirius systems.