

March 9, 2010

Hon. Meredith Attwell Baker
Federal Communications Commission
445 12th Street, SW
Room 8-A204
Washington, DC 20554

Re: *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band* (WT Docket No. 07-293) and *Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band* (IB Docket No. 95-91) – WRITTEN EX PARTE COMMUNICATION

Dear Commissioner Baker:

I am writing on behalf of the WCS Coalition in response to the letter you recently received from the chief executive officer of Sirius XM Radio Inc. excoriating the preliminary proposals that have been advanced by the Commission's staff to empower Wireless Communications Service ("WCS") licensees finally to take advantage of their mobile allocation and help meet the well-documented shortage of mobile broadband spectrum.

We appreciate the open and transparent manner in which the Commission's staff has handled this matter, and the time and effort that went into the concepts discussed with both sides last week. We, too, have concerns about the staff's preliminary proposals – in particular the introduction of new duty cycle limits on WCS mobile operations and the dramatic tightening of the out-of-band emission requirements for base station facilities give us pause. Our fear, quite frankly, is that these restrictions could have the unintended, and unnecessary, consequence of effectively precluding the use of much of the WCS band for viable mobile broadband services. We are in the process of consulting with the 2.3 GHz band mobile broadband vendor community so that we fully understand the implications of the staff's proposal. Our intent is to discuss the results of those consultations with the Commission's staff and suggest productive alternatives, as soon as possible. We believe that focusing on the complex engineering issues with the Commission's technical experts is a better way to achieve the Commission's goals in these proceedings than invoking scare tactics unrelated to the science.

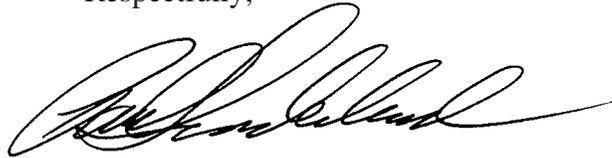
Notwithstanding Sirius XM's rhetoric, the preliminary proposals advanced by the staff will more than adequately protect Sirius XM's subscribers from harmful interference. Indeed, the staff's proposed WCS power limits, its proposed restrictions on out-of-band emissions into

Hon. Meredith Attwell Baker
March 9, 2010
Page 2

the satellite Digital Audio Radio Service (“DARS”) band, and its proposed ban on the use of the 2.5 MHz immediately above and below the DARS band for mobile operations will reasonably protect DARS subscribers from harmful interference even without the proposed duty cycle requirements.

The record before the Commission demonstrates that the Commission can have it both ways – it can provide DARS subscribers with reasonable protection against harmful interference while still freeing WCS from the shackles that have prevented it from becoming a viable source of mobile broadband spectrum. The Commission has left no ambiguity that the desire for a high quality DARS must “be balanced with the need to provide reasonable operating parameters for adjacent services” and thus the Commission’s objective in governing WCS must be “to limit the potential for interference to a reasonable level – not to provide a pure, interference-free environment.”¹ The WCS Coalition is committed to working with the Commission’s staff, you, and the other Commissioners to craft rules that will achieve this balance, without saddling WCS with restrictions that effectively eliminate WCS as mobile broadband spectrum and without unnecessary delay.

Respectfully,



Paul J. Sinderbrand

Counsel to the WCS Coalition

cc: Charles Mathias
Office of the Secretary

¹ *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service (“WCS”)*, Memorandum Opinion and Order, 12 FCC Rcd 3977, 3991 (1997). Sadly, while Sirius Satellite Radio, Inc. once acknowledged that DARS must be “willing to accept a level of interference that could significantly compromise” its service, that spirit of compromise is long gone. Petition of Sirius Satellite Radio Inc. for Rulemaking, and Comments, IB Docket No. 95-91, at 5 (filed Oct. 17, 2006).