INFORMATION AND DOCUMENT REQUEST FOR XM SATELLITE RADIO HOLDINGS INC. November 2, 2007

I. Corporate Documents and Other Agreements:

A. Provide any and all agreements and like documents relating to the Transaction, including, but not limited to, the Merger Agreement and any and all attachments, appendices, side or separate letter agreements and like documents by and between the Applicants.

B. Provide any documents relating to:

- (1) agreements with major retailers, including, but not limited to, Wal-Mart, Best Buy and Circuit City, relating to the marketing and sale of XM radio receivers and related equipment (including FM wireless transmitter modulators), including commissions, advertising credits, subsidies, co-share advertising arrangements and the provision of complimentary XM service subscriptions to equipment purchasers;
- (2) agreements with aftermarket equipment manufacturers or distributors, including, but not limited to, Audiovox, Delphi, Pioneer, AGT, Alpine, Sony, Polk and eton/Grundig, relating to the manufacture, distribution and/or marketing of XM radio receivers and/or related equipment (including FM wireless transmitter modulators), including commissions, advertising credits, subsidies, co-share advertising arrangements and the provision of complimentary XM service subscriptions to equipment purchasers;
- (3) programming agreements relating to specialized channels, including sports and entertainment programming, including, but not limited to, Major League Baseball, MLB Home Plate, National Hockey League, the PGA Tour, Andretti Green Racing, Indy Racing League, ESPN Radio, ESPN Sports, Fox News, Fox Sports, CNN and the Food Network;
- (4) agreements relating to programming with celebrity talent, including, but not limited to, Oprah Winfrey, Bob Dylan, Snoop Dog, Ludacris, Ellen DeGeneres, Tyra Banks, Bill O' Reilly, Larry King, Opie and Anthony, and Graham Nash;
- (5) agreements with car, truck, boat, recreational vehicle and motorcycle manufacturers relating to the marketing, sale and/or installation of XM equipment and service contracts, including revenue sharing, training for vehicle sales staff, service activation, subsidies, provision of complimentary XM subscriber service to vehicle purchasers and lessees, and other services;
- (6) licensing agreements with, including provisions regarding subsidies to, chipset manufacturers relating to chip and other equipment component sales to consumer electronic manufacturers for use with licensed XM radio receivers;

- (7) agreements relating to joint operations with Internet Service Providers (*e.g.*, AOL), mobile phone companies, satellite video distributors (*e.g.*, DIRECTV), or other entities regarding the use or distribution of XM-branded programming, including music, talk or sports channels, or other non-XM branded channels (*e.g.*, National Public Radio);
- (8) agreements with car, truck, recreational vehicle and motorcycle rental companies, such as Avis, National, Alamo and Zipcar, relating to the provision of XM radios and XM service in rental vehicles, including revenue sharing, training for vehicle rental staff; commissions, advertising credits, subsidies, co-share advertising arrangements and the provision of complementary XM service to vehicle renters:
- (9) agreements between XM and Sirius relating to the joint engineering operation for the research and development of interoperable radio receivers; and
- (10) agreements between XM and Sirius between 1997 and the present relating to sales, programming, service or equipment.

II. Data, Studies and Analyses

- **A.** Provide all company-sponsored surveys and studies cited in the Joint Opposition to Petitions to Deny and Reply Comments or otherwise submitted to the Commission by or on behalf of XM, or XM and Sirius, in this proceeding, and any underlying data and analyses.¹
- **B.** Provide the following materials, as well as any underlying data or analyses, used in the CRA Economic Analysis of the Competitive Effects of the Sirius-XM Merger:
 - (1) the number of FM and AM stations reaching each census block in the lower-48 United States states ("lower-48 states");
 - (2) the average number of FM and AM stations reaching each Zip Code Tabulation Area ("ZCTA") in the lower-48 states;
 - (3) the number of XM subscribers in each ZCTA in the lower-48 states; and
 - (4) the cited demographic information for each ZCTA in the lower-48 states.
- **C.** Provide any underlying data and analyses used in the Furchtgott-Roth Economic Enterprises' study of the Sirius-XM Merger that are not already in the public record.
- **D.** Provide all studies, analyses, evaluations, and strategic discussion materials prepared by or for XM, or XM and Sirius, after January 1, 2005, that are intended to offer guidance on the economic advisability of the proposed merger.
- **E.** Provide all studies, analyses, and evaluations prepared by or for XM of subscriber churn from the automobile and retail sales sectors, respectively, for the period January 2001, to the present.

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¹ See XM Satellite Radio Holdings Inc., Transferor, and Sirius Satellite Radio, Inc., Transferee, Joint Opposition to Petitions to Deny and Reply Comments of Sirius Satellite Radio Inc. and XM Satellite Radio Holdings Inc., MB Docket No. 07-57, filed July 24, 2007.

- **F.** Provide all surveys, analyses, and evaluations of listener behavior prepared by or on behalf of XM, including, but not limited to, audience studies (*i.e.*, ratings data, usage, audience demographics, and geographic distribution of audience) for the period January 2001, to the present.
- **G.** Provide all studies, analyses, and evaluations prepared by or on behalf of XM, or XM and Sirius, performed after January 1, 2005, regarding price projections for proposed new programming options and a la carte packages, including information relating to price stability, channels per programming package, and pricing comparisons between the current basic \$12.95 package and new programming options on a per-channel basis.
- **H.** Provide the following information on all promotions conducted by XM involving pricing, rebates, coupons, and all other forms of discounts offered to new or existing subscribers (including, but not limited to, discounts on equipment, service activation fees, installation charges, and service fees, such as free or discounted service trial periods), for the period January 1, 2005, to the present:
 - (1) the name of the promotion;
 - (2) the beginning date of the promotion;
 - (3) the ending date of the promotion;
 - (4) the nature of the promotion (coupons, rebates, promotional pricing, etc.);
 - (5) the effect of the promotion on prices (*e.g.*, reduced monthly price by \$5 per month for three months, two free months of service, \$50 rebate on a radio, no activation fee, etc.);
 - **(6)** the eligibility and other requirements (*e.g.*, new customers only, minimum subscription periods, purchases from specific retailers or original equipment manufacturers ("OEMs"), or of specific equipment, geographical limitations, etc.); and
 - (7) the number of subscribers that took advantage of the promotion.
- **I.** For each such promotion described in the response to Question H above, provide copies of all documents supporting the response or otherwise relating to the promotion.

III. Technical Information

- **A.** Provide a list of the XM terrestrial repeaters deployed in each market since January 2001, and, for each such terrestrial repeater, provide the following information:
 - (1) latitude, longitude, and community;
 - (2) antenna type;
 - (3) antenna orientation;
 - (4) antenna downtilt;
 - (5) antenna height;
 - (6) Equivalent Isotropically Radiated Power ("EIRP");
 - (7) dates that operation of the facility with those parameters commenced and ended;
 - (8) description of any technical modification to the facility; and
 - (9) dates that operation of the modified facility commenced and ended.

- **B.** Provide the methods or technologies of coding, compression, encryption, modulation, signal bandwidth and bit rate for both satellite and terrestrial repeater networks used since January 2001.
- C. List all receiver models sold since January 2001 and include all chipsets data including the manufacturer of the chipset used in them. Provide any statistics showing whether these receivers could become interoperable with minor changes in the chipset design or in the software program of these receiver chips.
- **D.** Provide the data sheet of technical characteristics for each chipset used in all receiver models sold since January 2001.
- **E.** Provide a description of all efforts to develop and commercialize interoperable satellite radio receivers and any difficulties in such development and commercialization.
- **F.** Describe all steps necessary to migrate all of XM's subscribers to a common technology platform and the cost the company and its customers will incur to implement such a migration.
- **G.** Provide maps, in .gxt format where possible, of the actual or expected geographic coverage area(s) for each of the XM satellites already in orbit or under development, including associated power flux density contours. Describe what factors went into the selection of the geographic coverage areas for the XM satellite networks, as well as any technical, economic, or other considerations that limit the ability of the XM satellite network to serve U.S. states and territories outside the contiguous United States.

IV. Claimed Public Interest Benefits

- **A.** Provide a detailed description of each of the cost savings expected to be realized as a result of the proposed transaction. For each of these anticipated cost savings:
 - (1) provide a full explanation as to why those cost savings would not be achieved absent the proposed transaction;
 - (2) provide a quantification of the cost savings and an explanation of how the quantification was calculated, including all assumptions and their sources:
 - (3) state separately the one-time fixed cost savings, recurring fixed cost savings, and variable cost savings (in dollars per unit and dollars per year); and
 - (4) provide sufficient supporting evidence to demonstrate that these cost savings will result in cognizable public interest benefits under our merger review standard.
- **B.** Describe any other efficiencies that are expected to occur as a result of the proposed transaction. For each of these other anticipated efficiencies:
 - (1) provide a full explanation as to why those efficiencies would not be achieved absent the proposed transaction;

- (2) provide a quantification of the efficiencies and an explanation of how the quantification was calculated, including all assumptions and their sources; and
- (3) provide sufficient supporting evidence to demonstrate that these efficiencies will result in cognizable public interest benefits under our merger review standard.
- **C.** With respect to the synergies Applicants expect will materialize and result in more programming choices at lower prices, including claimed benefits from a la carte programming and programming efficiencies: (see Consolidated Application at 9-11, 13, 17²; Joint Opposition at 10-14, 19-21):
 - (1) list each audio and video channel distributed in the United States currently by XM and for each such channel state:
 - (a) whether the content is exclusive to XM; and
 - **(b)** whether the content is also available on Sirius or over other media, including but not limited to terrestrial broadcast radio, cable television, Internet stream or download/podcast, or HD radio;
 - (2) for each channel identified in question (1)(a), indicate whether the company has obtained the rights necessary, if any, to distribute the programming by the combined company on an a la carte basis or as part of the "best of" or other proposed programming packages.
 - (3) with respect to the claim that the "combined company will be able to consolidate redundant programming," provide a list of channels which are duplicative on XM and Sirius and expected to be consolidated.
 - (4) explain why the proposed billing credit for subscribers who do not elect adult programming is a merger-specific benefit. In addition, address whether the Company would offer such a credit in the absence of merger approval.
 - (5) explain what short-term and long-term plans currently exist to "provide increased opportunities for a wider variety of content providers," to distribute niche programming to a wider audience via the merged entity. Explain why this benefit will only be achieved through the Transaction.
 - **(6)** with respect to radio receivers and other equipment needed to access the proposed, new program packages:
 - (a) provide all documents regarding the claim that "subscribers will be able to continue to use their existing radios." Explain in detail what equipment, including any enhancements or additional devices, will be needed by subscribers to access these packages. Identify Applicants' plans regarding target dates and the projected costs to subscribers for any enhancements or additional devices;

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² See XM Satellite Radio Holdings Inc., Transferor, and Sirius Satellite Radio Inc., Transferee, Consolidated Application for Authority to Transfer Control, filed Mar. 20, 2007.

- **(b)** if certain equipment or enhancements will be needed to access certain of these programming packages, but not others, specify the exact equipment and/or enhancements (*e.g.*, chipsets, compression techniques) that will be required to make each of these programming packages available: and
- **(c)** provide all documents regarding the claim that "subscribers will eventually purchase new radios capable of receiving all of the content of both services." Explain whether all Sirius and XM subscribers not just subscribers that select a la carte programming will be required to purchase new radios capable of receiving all of the content of both services.
- (7) provide any and all documents that discuss, identify, quantify, or otherwise relate to the anticipated synergies.
- **D.** With respect to Applicants' claim that the merger will "foster the commercial introduction of interoperable satellite radios" thereby providing greater customer choice and convenience (see Consolidated Application at 15-16):
 - (1) explain whether Applicants will make commercially available the "radio that is interoperable with each other's networks" as developed by the jointly funded engineering team and described in the Consolidated Application. If so, explain when this interoperable radio prototype will be commercially available.
 - (2) if not, explain whether Applicants will make commercially available a different radio prototype capable of receiving Applicants' combined signals, and when it will be available for commercial distribution.
 - (3) provide all documents that detail the intermediate steps, internally and with regard to equipment manufacturers, that will occur prior to the commercial availability of radios capable of receiving all of the content of both services.
 - (4) identify Applicants' plans and target dates for the commercial distribution of interoperable radios at retail distribution centers and via automobile manufacturers. As part of this response, explain Applicants' plans for making new receiver equipment or enhancements available to consumers who have existing automobile SDARS receivers.
 - (5) identify electronics manufacturers who have committed to, or have expressed an interest in, producing Applicants' interoperable radio;
 - (6) identify anticipated prices for such equipment;
 - (7) identify and describe Applicants' plans to subsidize interoperable radios;
 - (8) identify OEMs that have committed to installing interoperable radios.
 - (9) provide any and all documents that discuss, identify, quantify, or otherwise relate to the anticipated synergies; and
 - (10) explain why these claimed benefits will be achieved only through the Transaction.
- **E.** With respect to Applicants' claim that the merger will accelerate deployment of advanced technology (see Consolidated Application at 14):
 - (1) identify the "wider range of low cost, easy-to-use, multi-functional devices" that will result from the merger;

- (2) identify the planned new services, such as advanced data and telematics services, including enhanced traffic, weather and infotainment offerings that will result from the merger;
- (3) identify any plans to make available to XM subscribers a service similar to SIRIUS Backseat TV, and when this service will be available to XM subscribers (see Joint Opposition at 22);
- (4) explain how the merger will enhance the delivery of emergency services programming and information (see Joint Opposition at 24);
- (5) with regard to XM's services to business/commercial customers:
 - (a) identify services offered by XM and the subscription fees; and
 - **(b)** identify which services will be available post-merger, their subscription fees, and any distinctions between services currently available; and
- **6.** explain why these claimed benefits will be achieved only through the Transaction;
- (7) provide any and all documents that discuss, identify, quantify, or otherwise relate to the anticipated synergies and claims.
- **F.** With respect to Applicants' claim that the merger will safeguard the future of satellite radio and produce a stronger, more stable competitor in the audio entertainment market (see Consolidated Application at 17-20):
 - (1) identify whether the merged entity will eliminate any of the satellites currently deployed by Applicants, respectively;
 - (2) identify whether the merged entity will eliminate any of the repeater networks currently deployed by Applicants, respectively;
 - (3) identify whether Applicants, absent the merger, will have access to capital markets to sustain continued research, development and technological innovation; and
 - (4) provide any and all documents that discuss, identify, or otherwise relate to forecasts projecting ahead for periods beyond three years regarding the financial performance of the firm, including but not limited to subscribers, revenues, costs, profits, cash flow, and overall viability of the firm.
- **G.** Describe any other public interest benefits that are expected to occur as a result of the proposed transaction, and provide a full explanation as to why those benefits would not be achieved absent the proposed transaction. Provide documents that serve to provide sufficient support for these benefit claims so that the Commission can verify the likelihood and magnitude of each claimed benefit.

Definitions and Instructions

Definitions

For the purposes of this Information and Document Request, the following definitions apply.

- A. "XM" or "the Company" means XM Satellite Radio Holdings Inc., its subsidiaries, and any affiliate in which XM Satellite Radio Holdings Inc. or its subsidiary holds an Attributable Interest.
- B. "Sirius" means Sirius Satellite Radio Inc., its subsidiaries, and any affiliate in which Sirius Satellite Radio Inc. or its subsidiary, holds an Attributable Interest.
- C. The term "Applicants" means XM and Sirius.
- D. The term "Attributable Interest" means any interest that is cognizable or attributable under Section 76.1000(b) of the Commission's Rules, 47 C.F.R. § 76.1000(b), as if applicable to XM, including but not limited to: (a) any equity interest or any debt interest, including, but not limited to (1) voting or non-voting stock, options or warrants (whether or not exercised); partnership interests; or limited liability company interests; (2) any agreements, term sheets or letters of intent, whether executed or in draft, that contain rights to acquire any such interests; and (b) any positions held as director, officer, partner, managing member, or similar positions, including the right to appoint persons to such positions.
- E. The word "any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."
- F. The term "documents" means all computer files and written, recorded, and graphic materials of every kind in the possession, custody or control of the Company. The term "documents" includes electronic correspondence and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in the possession, custody, or control of the Company. In addition, the term "documents" includes any amendments, side letters, appendices or attachments. The term "computer files" includes information stored in, or accessible through, computer or other information retrieval systems. Thus, the Company should produce documents that exist in machine-readable form, including documents stored in personal computers, portable computers, workstations, minicomputers, mainframes, servers, backup disks and tapes and archive disks and tapes, and other forms of offline storage, whether on or off the Company's premises. Electronic mail messages should also be provided, even if only available on backup

or archive tapes or disks. Computer files shall be printed and produced in hard copy or produced in machine-readable form (provided that Commission staff determine prior to submission that it would be in a format that allows the Commission to use the computer files), together with instruction and all other materials necessary to use or interpret the data. Unless otherwise specified, the term "documents" excludes bills of lading, invoices, purchase orders, customs declarations, and other similar documents of a purely transactional nature and also excludes architectural plans and engineering blueprints.

- G. The term "identify," when used with reference to a person or persons, means to state his/her full legal name, current or last known business address, current or last known telephone number, current or last known organization and position therewith. "Identify," when used with reference to a document, means to state the date, author, addressee, type of document (*e.g.*, the types of document, as described above), a brief description of the subject matter, its present or last known location and its custodian, who must also be identified. "Identify," when used with reference to an entity other than a person, means to state its name, current or last known business address, and current or last known business telephone number.
- H. The term "Licensee" means the holder of a license or other authorization issued by the Federal Communications Commission for a satellite digital audio radio or television facility, and any predecessor-in-interest, affiliate, parent company, any wholly or partially owned subsidiary, and other affiliated company or business thereto, and all owners, including but not limited to, partners or principals, and all directors, officers, employees, or agents, including consultants and any other persons working for or on behalf of the foregoing at any time during the period covered by this letter.
- I. The term "person" means any individual, entity, or organization.
- J. The term "relating to" means in the whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or stating.
- K. "SDARS," "Satellite Digital Audio Radio Service," or "satellite radio" means, as defined in Section 25.201 of the Commission's Rules, a radiocommunication service in which audio programming is digitally transmitted by one or more space stations directly to fixed, mobile and/or portable stations, and which may involve complementary repeating terrestrial transmitters, telemetry, tracking and control facilities.
- L. The term "subscriber" means any person or entity that subscribes to the referenced audio or video service, tier, or programming package.
- M. The term "terrestrial repeater" means an SDARS transmission facility that is used to fill in coverage areas where the satellite signal may be blocked, either by terrain or buildings, in order to replicate an uninterrupted stream of programming to the end user.

- N. The term "Transaction" means all transactions contemplated in the Consolidated Application for Authority to Transfer Control filed with the Federal Communications Commission by Sirius and XM on March 20, 2007, including any and all transactions described in the Agreement and Plan of Merger entered into by Sirius and XM on February 19, 2007, including and all agreements and amendments thereto.
- O. "United States" means the United States, its possessions, territories, and outlying areas.

Instructions

Responses to this Information and Document Request shall be submitted in the following manner:

- A. Unless otherwise specified, each of the document or data requests calls for documents and data for the previous 24-month period.
- B. Corporations and other entities, including affiliated or subsidiary entities, should be identified by the Central Index Key (CIK) assigned by the Securities and Exchange Commission (SEC). A unique identifier should be used for each entity that has not been assigned a CIK by the SEC.
- C. Each requested document shall be submitted in its entirety, even if only a portion of that document is responsive to a request made herein. This means that the document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All written materials necessary to understand any document responsive to these requests must also be submitted.
- D. For each document or statement submitted in response to the requests, indicate, by number, to which request it is responsive and identify the person(s) from whose files the document was retrieved. If any document is not dated, state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Company must identify with reasonable specificity all documents provided in response to these requests.
- E. Please indicate to which request number submitted materials are responsive and group those submitted materials according to that request number. If a document is responsive to more than one request, provide the document for the first request to which it is responsive, and in later instances where it would be responsive, specify each response to which it was also submitted. In addition, responses should be grouped, identifying the appropriate custodian.
- F. With each submission, provide a cover letter (colored slipsheet is preferred) in each box or package submitted that: (1) identifies the number of boxes or packages delivered and the Bates ranges of documents contained in each respectively numbered box or package (if only one package is delivered, please so state); (2) identifies documents by the Information/Document Request to which they respond and also identifies the consecutive Bates numbers (please do not skip Bates numbers, but, if doing so is necessary, identify any Bates numbers that were skipped) corresponding to that Information/Document Request (you may use initial alpha codes to signify each Information/Document Request, *e.g.*, XM.I.A.000001 or XM.II.B.000001); (3) indicates whether the materials are a partial or full response to any request to which they respond; and (4) lists the Bates numbers (or ranges of Bates numbers) of documents by custodian (these custodian-Bates-number lists do not need to be consecutive, but to the extent it is possible to cluster a

custodian's document with each set of requests, please do so). Please paginate any public and nonpublic responses (*i.e.*, submitted pursuant to the Protective Order) to the requests identically for ease of reference. For multiple-box deliveries, please consistently and clearly label each box with the following information: the name of the submitting party; date of the submission; box number; range(s) of Bates numbers enclosed; and custodians from whom the documents were obtained.

- G. The specific requests made herein are continuing in nature. The Company is required to produce in the future any and all documents and information that are responsive to the requests made herein but not initially produced at the time, date and place specified herein. In this regard, the Company must supplement its responses (a) if the Company learns that, in some material respect, the documents and information initially disclosed were incomplete or incorrect or (b) if additional responsive documents or information are acquired by or become known to the Company after the initial production. The requirement to update the record will continue until the Commission's decision regarding the Transaction is no longer subject to reconsideration by the Commission or to review by any court.³
- H. Any documents that are withheld in whole or in part from production based on a claim of privilege shall be assigned document control numbers (with unique consecutive numbers for each page of each document). The Company shall also provide a statement of the claim of privilege and all facts relied upon in support of the decision to withhold each document, in the form of a log that conforms to the requirements set forth below.
 - 1. For each document identified on the Company's privilege log:
 - a. Provide the document's control number(s);
 - b. Identify all authors of the document;
 - c. Identify all addressees of the document;
 - d. Identify all recipients of the document or of any copies of the document, to the extent not included among the document's addressees;
 - e. Provide the date of the document:
 - f. Provide a description of the subject matter of the document;
 - g. State the nature or type of the privilege that the Company is asserting for the document (*e.g.*, "attorney-client privilege");
 - h. Provide the number(s) of this Request to which the document is responsive;
 - i. Provide the document control number(s) of any attachments to the document, regardless of whether any privilege is being asserted for such attachment(s); and
 - j. State whether the document has been produced in redacted form.
 - 2. The Company's privilege log shall also conform with all of the following requirements:

³ See 47 C.F.R. § 1.65.

- a. Provide a separate legend identifying each author, addressee, and recipient identified on the Company's privilege log.
- b. Identify on the privilege log, and denote with an asterisk, all attorneys acting in a legal capacity with respect to the withheld document or communication.
- c. The description of the subject matter of each document shall describe the nature of the document in a manner that, though not revealing information that is itself privileged, provides sufficiently detailed information to enable the Commission to assess the applicability of the privilege claimed.
- d. For each document withheld under a claim that it constitutes or contains attorney work product, also state whether the Company asserts that the document was prepared in anticipation of litigation or for trial and, if so, specify the anticipated litigation or trial upon which the assertion is based.
- e. Produce all nonprivileged portions of any responsive document (including nonprivileged or redactable attachments) for which a claim of privilege is asserted, except where the only nonprivileged information in the document has already been produced. Note where any redactions in the document have been made.
- f. The privilege log shall be produced in both hardcopy and electronic form, the electronic form of which shall be both searchable and sortable.
- g. Documents sent solely between counsel, including in-house counsel acting solely in a legal capacity, and documents authored by the Company's outside counsel that were not directly or indirectly furnished to any third party, such as internal law firm memoranda, may be omitted from the privilege log. However, any attachments to such documents must be included on the privilege log (if a privilege is applicable to such materials), unless such attachments are addressed and sent solely to counsel.