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July 16, 2008

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

Re: Docket No. 07-57

Dear Ms. Dortch:

On July 15, 2008, I, representing U.S. Electronics, spoke with Rudy Brioché and Shawn Donilon in the Office of Commissioner Adelstein. We discussed the May 23, 2008 letter that U.S. Electronics filed in this docket proposing the specifics of an open device condition in connection with the proposed merger. We discussed each element of the condition as proposed, and I explained the rationale for each element. I explained that the need for the specific elements of the condition flows from the foundational fact that the petitioners are seeking permission to merge to monopoly; thus, strict and detailed oversight is necessary. I also explained the importance of the proposed independent monitor to ensure quick processing of alleged violations and prompt recommendations as to resolution to the Commission. We also discussed the critical role of independent testing labs to certify product compliance.

Respectfully submitted,

//signed//

Kathleen Wallman
Kathleen Wallman, PLLC
Counsel to U.S. Electronics

Proposed Merger Conditions
Of
U.S. Electronics, Inc.
Media Bureau Docket No. 07-57
Consolidated Application of XM/Sirius

The merged entity should:

- Be barred from directly or indirectly engaging in or interfering with the design, manufacture or distribution of satellite radio receivers or other digital devices that can access the satellite radio network;
- Publish and make available information on the technical requirements and specifications of its network, including reasonably advanced notice of any changes to any qualified and willing partner;
- Not interfere with consumers' access to, or their choice of, devices by which to access the network;
- Comply with rules and regulations that provide for the compatibility of receivers to ensure that the satellite radio-using public has reasonable and non-discriminatory access to the satellite radio network;
- Comply with the FCC's policy that the public has the right to use any device to access and make use of the satellite radio network, consistent with the principles established in the *Hush-a-Phone* and *Carterfone* decisions -- as codified in Part 68 of the FCC's Rules, 47 C.F.R. Part 68, as well as the principles established under Section 629 of the Telecommunications Act of 1996, the FCC's implementing rules of Section 629, 76 C.F.R. §1200 et seq., and the Court's affirmation of the FCC's implementing regulations in *Charter Communications Company v. FCC*, 460 F.3d 31 (D.C. Cir. 2006); and importantly,
- Be subject to an independent monitor who will ensure compliance with FCC rules and regulations.

Note: These conditions have been inserted into the record numerous times in ex parte filings and in pleadings such as USE's Petition to Defer filed October 12, 2007.