National Association of NAB BROADCASTERS

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Nate Davis
President and Chief Operating Officer
XM Satellite Radio, Inc.
1500 Eckington Place, N.E.
Washington, DC 20002

Mel Karmazin
Chief Executive Officer
Sirius Satellite Radio, Inc.
1221 Avenue of the Americas
New York, NY 10020

Dear Mr. Davis and Mr. Karmazin:

NAB has observed with great interest the recent developments concerning the commercial distribution of satellite radio devices that cause unlawful, unwelcome interference to free over-the-air radio services. Broadcasters were heartened by your decisive actions to suspend production of noncompliant receivers with FM transmitters, pending FCC review. The FCC's diligence, as well as your responsiveness, helped prevent further disruptions caused by additional noncompliant satellite radios. Nevertheless, now that the FCC has approved the resumed manufacture of newly compliant satellite radio receivers, NAB urges XM and Sirius to take the next logical step of voluntarily withdrawing and replacing all noncompliant receivers already in circulation, to resolve existing interference to terrestrial radio service.[1]

As previously noted, in June 2006, the engineering consulting firm of Meintel, Sgrignoli, & Wallace ("MSW"), on behalf of NAB, tested 17 wireless devices being used with satellite radio and MP3 players. MSW determined that 13 of these 17 devices exceeded the field strength ceilings for operation of unlicensed devices under Part 15 of the FCC's rules, including seven devices that emitted signals 2,000 percent stronger than permitted under the FCC's rules.[2] The NAB study thus identified a pervasive, industry-wide problem.[3]

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[1] Alternatively, XM and Sirius could utilize the addressable serial number contained in all satellite radios, or billing addresses and warranty information submitted by subscribers, to identify and temporarily suspend service to satellite radios with activated, integrated FM modulators, pending their replacement by compliant equipment.

[2] Although the wired Delphi SA1003 XM Radio Modulator Kit included in NAB's study passed our inspection, the FCC had previously informed XM that the Delphi XM SKYFi2 radio violated permissible emission limits. NAB and MSW thus found it unnecessary to test the SKYFi2 in this study.

[3] *See* Letter to the Honorable Kevin J. Martin from Marsha J. MacBride (June 22, 2006).

More recently, in response to numerous listener complaints of satellite radio interference on FM stations carrying National Public Radio programming, NPR Labs conducted a study that highlights the dramatic impact of such interference. NPR confined its research to 88.1 MHz and 87.9 MHz, which are the FM channels most commonly-supplied on personal FM modulators, including those offered by XM and Sirius. NPR measured the field strength of signals emitted on these channels from a variety of highways in the Washington, DC area.[4] The NPR Study indicates that approximately 30 to 50 percent of detected personal FM modulators are operating with emissions that exceed the FCC's regulatory limit. The study reveals a high probability that listeners of these channels will encounter objectionable interference in a matter of minutes of driving, and perhaps multiple occurrences per minute of driving on high-traffic routes. For example, assuming a reasonable daytime average of 3600 vehicles per hour on US Route 50 in Arlington, Virginia, a driver traveling in the opposite direction could incur interference from approximately 28 non-compliant FM modulators in one hour, or one almost every other minute.[5]

Given these test results, it is irrefutable that satellite radio receivers with FM transmitters will continue to disrupt terrestrial radio services so long as receivers that were shipped prior to the FCC's recent approvals of new radios remain in the market. NAB therefore urges XM and Sirius to voluntarily withdraw and replace all noncompliant satellite radio devices in circulation, as this is the only means sufficient to safeguard the public interest in free over-the-air radio services, including new digital services. NAB urges you to seriously consider undertaking this consumer-friendly step for the benefit of all radio listeners.

NAB appreciates your prompt attention to this matter.

Best wishes.

Sincerely,

David K. Rehr

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cc: Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell

[4] FM Modulator Usage and Emission Levels in the United States, National Public Radio – Washington, DC (July 26, 2006) ("NPR Study").
[5] NPR Study at p. 6.