

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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DOMESTIC FACILITIES DIVISION
SATELLITE RADIO

In the Matter of)
)
SATELLITE CD RADIO, INC.)
)
Application for Digital Audio)
Radio Service Satellite System)

File Nos. 49/50-DSS-P/LA-90
58/59-DSS-AMEND-90
44/45-DSS-AMEND-92

**OPPOSITION TO SATELLITE CD RADIO, INC.'s
MOTION FOR ACCEPTANCE OF SUPPLEMENTAL COMMENTS**

Pursuant to Section 1.45 of the Commission's Rules, the undersigned licensees and permittees of radio stations located in markets of varied size throughout the United States (hereinafter "Joint Parties"), hereby oppose the "Motion for Acceptance of Supplemental Comments" filed on November 9, 1994 by Satellite CD Radio, Inc. ("SCDR").

SCDR's attempt to file proposed service rules, in the form of "Supplemental Comments," in the above-captioned application proceeding is both audacious and inappropriate. Despite SCDR's assertion that it seeks to "ease the administrative burden of the Commission" (see SCDR Motion at 1), the agency is not yet bearing a load that SCDR could lighten. The SCDR filing is simply irrelevant to the SCDR application.

The issues raised in the proposed "Supplemental Comments" might be appropriate for resolution in the context of a service rulemaking proceeding relating to what SCDR calls Satellite Digital Audio Radio Service ("SDARS"), should such a

proceeding be initiated. At this point, however, discussion of such a proceeding is premature and purely speculative, as spectrum has not even been allocated for "SDARS." Decisions made in any allocation order would likely have an impact upon issues addressed by SCDR, including the existence of mutual exclusivity, that differ from assumptions embodied in SCDR's proposed rules. Indeed, SCDR's self-serving proposal has not been agreed to by all of the other potentially mutually exclusive applicants to provide "SDARS," as SCDR itself admits. See SCDR Supplemental Comments at 2.

SCDR is evidently attempting, in any way possible, to push the Commission into taking premature action concerning both the desirability of a satellite radio service and the potential grantability of SCDR's pending application (i.e., the issue whether it is mutually exclusive with other pending applicants). As the Joint Parties have made clear in the past, however, there are many unresolved issues concerning whether "SDARS" should even be implemented and, if it is implemented, how this should be done.^{*/} The ultimate existence of mutually exclusive applications, which is the central issue emphasized by SCDR in its filing, is thus a question that cannot be resolved until spectrum has been allocated for a service and service rules to govern the access of applicants to the allocated frequency bands have been adopted.^{**/}

^{*/} See, e.g., Joint Parties' "Petition to Deny or Defer," FCC File Nos. 49/50-DSS-P/LA-90, 58/59-DSS-AMEND-90, and 44/45-DSS-AMEND-92, at 1-4 (filed November 13, 1992).

^{**/} See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining
(continued...)

Accordingly, SCDR's motion should be denied and its Supplemental Comments rejected as immaterial.

Respectfully submitted,

SHAMROCK BROADCASTING, INC.
KABL(AM), Oakland, California
KNEW(AM), Oakland, California
KABL-FM, San Francisco, California
KSAN-FM, San Francisco, California
KLAC(AM), Los Angeles, California
KZLA-FM, Los Angeles, California
WWWW(FM), Detroit, Michigan
WDFN(AM), Detroit, Michigan
KFAN(AM), Minneapolis, Minnesota
KEEY-FM, St. Paul, Minnesota
WHTZ(FM), Newark, New Jersey
WFOX(FM), Gainesville (Atlanta), Georgia
WWSW(AM and FM), Pittsburgh, Pennsylvania
KRQT(FM), Lake Jackson (Houston), Texas
KXKL(AM and FM), Denver, Colorado
KMLE(FM), Chandler (Phoenix), Arizona
CLARKE BROADCASTING CORPORATION
WGAU(AM), Athens, Georgia
WNGC(FM), Athens, Georgia
KVML(AM), Sonora, California
KZSQ(FM), Sonora, California
CLASSICAL ACQUISITION LIMITED
PARTNERSHIP (and affiliates)
WTEM(AM), Bethesda, Maryland
WBIG-FM, Washington, D.C.
WGMS-FM, Washington, D.C.
KQQL(FM), Anoka, Minnesota
WBOB-FM, Minneapolis, Minnesota

**/ (...continued)

to a Mobile-Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, FCC 94-261, slip op. (released October 14, 1994) (wherein the issue of mutual exclusivity could not be resolved until after a Commission decision establishing service rules).

COAST RADIO, L.C.

WMXC(FM), Mobile, Alabama
WNTM(AM), Mobile, Alabama
WCOA(AM), Pensacola, Florida
WWRO(FM), Pensacola, Florida

ECI LICENSE COMPANY, L.P.

KITS(FM), San Francisco, California
KLDE(FM), Houston, Texas
KEGE(AM), Richfield, Minnesota
WDSY(FM), Pittsburgh, Pennsylvania
WEPP(AM), Pittsburgh, Pennsylvania
WXRFB(FM), Pittsburgh, Pennsylvania
WKTK(FM), Crystal River

(Gainesville), Florida

WYUU(FM), Safety Harbor (Tampa), Florida

KMTT(AM and FM) Tacoma, Washington

EXCELSIOR COMMUNICATIONS, INC.

WRKA(FM), St. Matthews,
(Louisville), Kentucky

KMAP, INC.

KWAC(AM), Bakersfield, California

KIWI(FM), Bakersfield, California

L.M. COMMUNICATIONS, INC.

(and affiliates)

WLXG(AM), Lexington, Kentucky

WGKS(FM), Paris (Lexington), Kentucky

WYBB(FM), Folly Beach

(Charleston), South Carolina

WCOZ(AM), St. Albans, West Virginia

WKLC(FM), St. Albans, West Virginia

LOS CERZOS TELEVISION COMPANY

WMDO(AM), Wheaton, Maryland

RADIO TRIANGLE EAST COMPANY

WSAY-FM, Rocky Mount, North Carolina

RUSTON BROADCASTING CO., INC.

KRUS(AM), Ruston, Louisiana

KXKZ(FM), Ruston, Louisiana

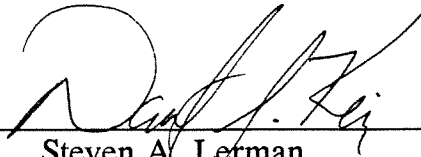
SOUTH FORK BROADCASTING CORP.

WWHB(FM), Hampton Bays, New York

VANTAGE COMMUNICATIONS, INC.

KKCD-FM, Omaha, Nebraska

WRMT, INC.
WRMT(AM), Rocky Mount, North Carolina

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November 25, 1994

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CERTIFICATE OF SERVICE

I, David S. Keir, hereby certify that a true copy of the foregoing "Opposition to Satellite CD Radio's Motion for Acceptance of Supplemental Comments" was mailed, postage prepaid this 25th day of November, 1994 to:

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