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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Application of)	
)	
SATELLITE CD RADIO)	
)	49/50-DSS-P/LA-90
For Authority to Construct,)	58/59-DSS-AMEND-90
Launch, and Operate A Digital)	44/45-DSS-AMEND-92
Audio Radio Service Satellite)	
System in the 2310-2360 MHz)	
Frequency Bands)	

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OFFICE OF CHIEF
DOMESTIC FACILITIES DIVISION
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REPLY COMMENTS OF NATIONAL PUBLIC RADIO

National Public Radio (NPR) offers the following Reply Comments in response to the Comments and Petitions to Deny filed in the above identified docket. NPR is a nonprofit, noncommercial organization which provides programming and interconnection services to 458 full-service public radio stations and which represents them in developing and maintaining a viable and diverse public radio service for the American public. NPR does not support or oppose the applications involved in this docket, but as an early proponent of digital radio service, NPR offers these reply comments to clarify its general position on issues raised in these applications.

Satellite CD Radio, Inc. ("SCDR") has submitted applications to construct, launch, and operate space stations for a satellite digital audio radio service. The revised "Compendium of Applications and Restatement of Rulemaking Petition" ("Compendium"), filed September 25, 1992, requests the Commission to allocate frequencies in the 2310-2360 MHz band for

point-to-multipoint satellite service (MPSS) and to allow SCDR to construct, launch, and operate two satellites in the new service. Various parties have filed comments in support of and in opposition to SCDR's requests.

NPR believes that the commenting parties on both sides have raised important issues for the Commission to consider. The Commission is faced with the task of balancing the public interest and its other responsibilities under the Communications Act with the emergence of a new industry using digital technologies that will potentially redefine radio service in the 21st century. NPR sees digital technology as holding the promise of increasing public service, public access, and efficient use of a public resource -- the electromagnetic spectrum. The Commission must decide whether these particular applications are timely or premature and whether they adequately fulfill the possibilities for new digital audio services.

NPR wants to clarify the record on these SCDR applications with respect to its own position on digital audio services and to respond to several issues raised in the first round of comments.

First, NPR does not support or oppose the SCDR Applications.

NPR has long been a proponent of digital audio technology. Beginning in 1987, in comments in the Commission's "Inquiry on Development and Uses of Advanced Television Systems" (Docket 87-268), NPR described the need for a digital audio radio service in light of technical problems with FM radio and consumer interest in digital quality sound. NPR has reiterated this position in multiple filings at the Commission and elsewhere.

At no time has NPR endorsed a specific terrestrial or satellite system or applicant and we do not do so now. NPR has stated repeatedly that it is fully committed to the existing system of distribution of NPR programming to local stations nationwide and that it does not contemplate moving any current NPR programming to a satellite-to-listener service.

Second, NPR has consistently urged that adequate spectrum be set aside for public radio needs.

In filings before the Commission, the National Telecommunications and Information Administration ("NTIA"), and in testimony before Congress, NPR has consistently urged that if and when spectrum is allocated for digital satellite service, there should be a set-aside for public radio needs. See, for example, Comments of National Public Radio, "Current and Future Requirements for the Use of Radio Frequencies in the United States," NTIA Docket No. 920532-2132, filed November 6, 1992.

In this docket, Minnesota Public Radio (MPR) and Wisconsin Public Radio (WPR) have suggested, respectively, that 20% and 10% of any digital spectrum be set aside for public radio and educational institutions. NPR believes that public interest needs must be protected by an adequate number of channels allocated for public radio. The requests of MPR and WPR are consistent with the positions NPR has advanced over the past five years, however we note that studies have not yet been done to determine the precise amount of spectrum required to meet these public service needs.

Third, NPR believes that decisions on the allocation and regulation of spectrum should be made carefully and be designed for the long-term.

As noted in NPR's recent NTIA filing, any final decisions on spectrum for digital radio should be deferred until crucial technical testing and standardization information is available. The Electronics Industries Association (EIA) and the International Consultative Committee for Radio (CCIR) of the International Telecommunications Union (ITU) are testing proponent DAB systems for domestic and international standardization. Until such a standard for terrestrial digital broadcasting is selected, possibly in late 1993, final decisions on spectrum allocation should be deferred. NPR believes that prior to the selection of terrestrial standards, a final allocation decision awarding these S-band frequencies exclusively to operators of satellite systems would be premature.

In addition, there are a series of important policy matters which must be resolved before any satellite digital audio system applicant should be allowed to operate. As noted in the comments of Primosphere Limited Partnership, while the 2310-2360 MHz frequencies are reserved in the United States for broadcasting-satellite service (sound), SCDR rejects any characterization of its services as broadcasting. SCDR also resists being regulated as a common carrier. NPR believes that the Commission should develop regulations for these frequencies using broadcast regulations as a model and should assure that the users of this spectrum are fully accountable for their public

interest responsibilities. As part of the analysis underlying such regulations, NPR encourages the Commission to consider whether limited-access subscription services qualifies as "public service" programming.

Secondly, as noted earlier, NPR, along with MPR and WPR, believes that there should be a set-aside of this spectrum for noncommercial, educational use. The Commission should resolve this issue by creating a specific reservation for these purposes prior to any final assignment of these frequencies.

Finally, NPR concurs with other commenters, including Primosphere, National Association of Broadcasters, Digital Cable Radio and the "Joint Parties", that the Commission must resolve the various technical and regulatory matters before taking any final action on the SCDR applications. Certainly, the Commission would want to have reached preliminary conclusions on these matters based on the record developed in the Notice of Proposed Rulemaking and Further Notice of Inquiry, "Amendment of the Commission's Rules With Regard to the Establishment and Regulation of New Digital Audio Radio Services" (Docket 90-357).

SCDR has indicated its willingness to begin construction and launch plans and take the risk that the Commission subsequently will adopt new technical and policy requirements. The Commission must determine whether this sequence of events would serve the public interest and advance the development of digital audio in this country.

CONCLUSION


It is now clear that the United States and the world are


heading toward a new digital environment for audio services. What is less certain is the exact contour of those services -- satellite-based (S-band or L-band) or terrestrial (in-band or out-of-band frequencies).

The Commission must now chart the course for the development of digital audio. Its decisions will shape the digital services of the future. NPR encourages the Commission to act both carefully and courageously so that the public interest is adequately protected and digital services are fully encouraged.

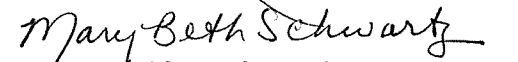
Respectfully submitted,



Theodore A. Miles
General Counsel


Karen Christensen
Assistant General Counsel


Don Lockett
Vice President, Audio
Engineering


Mary Lou Joseph
Director, National Affairs


Mary Beth Schwartz
National Affairs Associate


Mike Starling
Director, Technical
Operations

National Public Radio
2025 M Street, N.W.
Washington, D.C. 20036
202-822-2040

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OFFICE OF THE SECRETARY

In the Matter of)	
)	
Applications of Satellite)	File Nos. 49/50-DSS-P/LA-90
CD Radio Inc. for Authority)	58/59-DSS-AMEND-90
to Construct, Launch, and)	44/45-DSS-AMEND-92
Operate a Digital Audio)	
Radio Satellite System)	

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REPLY COMMENT OF ASSOCIATION
FOR MAXIMUM SERVICE TELEVISION, INC.

DEC 3 1992

OFFICE OF CHIEF
DOMESTIC FACILITIES DIVISION
COMMON CARRIER BUREAU

The Commission has sought public comment on the application of Satellite CD Radio, Inc. ("Satellite CD"), for authority to construct, launch and operate a digital audio radio service. See Public Notice, Report No. DS-1244, released October 13, 1992. MSTV supports the comments and petitions opposed to the grant of this application. In particular, MSTV opposes the Satellite CD's proposed use of 7035-7055 Mhz frequency bands for a satellite uplink feeder station to be located in Washington, D.C.

The proposal to use 7035-7055 Mhz for a satellite uplink facility is, of course, in direct conflict with the uses now permitted in that band. Section 74.602 of Commission's Rules allocates the frequencies 7025-7050 Mhz, and 7050-7075 Mhz, as "B" Band television auxiliary channels for assignment to television pickup, television Studio-to-Transmitter Links (STLs), television relay and television translator relay stations. In addition, broadcast and cable networks and cable system operators are authorized to use

these channels for mobile television pick-up applications. See 47 C.F.R. §§ 74.602, 78.18(a)(8).

As has been demonstrated elsewhere, the broadcast auxiliary bands are heavily utilized for electronic newsgathering (both fixed and mobile links), intercity relays and studio-to-transmitter links.^{1/} Moreover, the Commission has determined that the broadcast industry will be vitally dependent upon these auxiliary frequencies during the transition to advanced television. See Advanced Television Systems, MM Docket No. 87-268, Notice of Proposed Rulemaking, 6 FCC Rcd 7024 at ¶ 33 (November 8, 1991).

Despite the fact that the proposed use is nowhere contemplated in the Commission's Rules, Satellite CD's application contains neither an express request for waiver of the rules nor any showing of need. The sole reference to the current occupants of the bands is the terse statement in the application that it should be "simple" to avoid other users "given the sparse use of the 7 GHz (sic)". Application Compendium at 24.^{2/}

^{1/} See, e.g., Comments of NAB, CapCities/ABC, Cox Broadcasting, H&C Communications, Reply Comments of MSTV (January 15, 1991), Gen. Docket No. 90-314 (addressing proposal to reallocate portion of broadcast auxiliary band to personal communications services).

^{2/} Satellite CD's application contains no engineering showing nor even any occupancy study to back up this claim, relying solely on its assertion that the uplinks will be low power and narrow bandwidth. While it is not possible at this point to assess Satellite CD's claim with any degree of
(continued...)

This failure is due no doubt in part to the fact that this is in fact a spectrum allocation issue and thus properly dealt with in the Commission's pending rulemaking on digital audio broadcasting. See Notice of Proposed Rulemaking and Further Notice of Inquiry, Gen. Docket No. 90-357, FCC 92-466 (adopted October 8, 1992; released, November 6, 1992). As numerous other parties to this proceeding have observed, it is simply premature for the Commission to address the specific issues raised by Satellite CD's application until it has resolved at least the basic issues presented in that rulemaking, the question of what, if any, spectrum to allocate to this service being prime among them. See Comments of NAB, Comments of Joint Parties (November 13, 1992). The prematurity of Satellite CD's request is particularly evident with respect to the proposed use of the 7 GHz band, where Satellite CD has made no showing whatsoever of either its need

^{2/}(...continued)

precision, there is certainly room for doubt as Satellite CD has proposed to locate its uplink in one of the most intensively used broadcast auxiliary markets in the country. Washington, D.C. is, of course, the locus of a high percentage of breaking national news events, and, consequently, the broadcast auxiliary frequencies are utilized there not only by the numerous local stations in the area but by all the national broadcast and cable networks, including C-SPAN. It is common knowledge among frequency coordinators and the Washington TV broadcast auxiliary users that demand at peak periods far exceeds available channels. And a great deal of the use is for mobile operations, which, as the Commission is well aware, makes sharing with fixed users such as satellite uplinks much more difficult.

for these frequencies or the feasibility of using them in the proposed location.

Whatever the reason for the deficiencies in Satellite CD's application, Satellite CD has simply failed to make any showing warranting grant of its request for 7 GHz uplink spectrum. Permitting any DAB use of this vital and congested band is a major policy determination which should be undertaken only after a serious and comprehensive analysis. The record here is clearly inadequate to support such a determination. Satellite CD's request to utilize the 7 GHz band should be denied.

Respectfully submitted,

ASSOCIATION FOR MAXIMUM
SERVICE TELEVISION, INC.



Jonathan D. Blake
Gregory M. Schmidt
Charles W. Logan
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044
(202) 662-6000

Its Attorneys

Julian L. Shepard
Vice President &
General Counsel

Victor Tawil
Vice President
1400 16th Street, N.W.
Suite 610
Washington, D.C. 20036

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