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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the matter of )  
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XM RADIO, INC. )  
 )  
Request for Special Temporary Authority )  
to Operate Terrestrial Repeaters )

File No. SAT-STA-20010712-00063

SEP 28 2001

Received

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

OCT 3 2001

To: Chief, International Bureau

PETITION FOR RECONSIDERATION OF STA

The Wireless Communications Association International, Inc. ("WCA"), by its attorneys, hereby petitions the Chief, International Bureau to reconsider the Bureau's September 17, 2001 *Order and Authorization* granting XM Radio, Inc. special temporary authorization (the "STA") to commercially operate terrestrial repeaters in the spectrum licensed for satellite Digital Audio Radio Service ("SDARS").<sup>1</sup> For the reasons set forth below, WCA submits that the STA fails to adequately protect Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") licensees from harmful interference that may be caused by XM's terrestrial operations.

In response to the Commission's July 31, 2001 *Public Notice* soliciting public comment,<sup>2</sup> WCA filed comments addressing requests by XM and Sirius Satellite Radio, Inc. ("Sirius") for STAs to commercially operate networks of terrestrial SDARS repeater facilities.<sup>3</sup> In the interest

<sup>1</sup> *XM Radio, Inc.*, DA 01-2172, ) File No. SAT-STA-20010712-00063 (rel. Sept. 17, 2001)[hereinafter cited as "STA"].

<sup>2</sup> "Satellite Policy Branch Information Applications Accepted for Filing," *Public Notice*, Report No. SAT-00077 (rel. July 31, 2001).

<sup>3</sup> See Comments of WCA in Opposition to Grant of STA Requests, File Nos. SAT-STA-20010712-00063 and File No. SAT-STA-20010712-00064 (filed Aug. 21, 2001)[hereinafter cited as "WCA Comments"].

of brevity, the arguments advanced in those comments will not be repeated here but instead are incorporated by reference. For present purposes, it suffices to say that WCA reiterated its oft-stated concern that terrestrial DARS operations can cause harmful brute force overload interference to MDS and ITFS facilities,<sup>4</sup> and called upon the Commission, *inter alia*, to impose upon the SDARS licensees the same condition imposed on Wireless Communications Service (“WCS”) licensees – that they be required to provide all neighboring MDS and ITFS licensees 30 days advance notice of the technical parameters of all terrestrial repeaters (not just those operating above 2,000 watts EIRP) in the same fashion that WCS licensees are obligated to give advance notice pursuant to Section 27.58 of the Commission’s Rules.<sup>5</sup> WCA established that such a condition is necessary to assure that MDS and ITFS licensees will be aware in advance of the increased potential for brute force overload interference and will be able to trace any new or increased interference to the appropriate terrestrial repeater.<sup>6</sup> Significantly, neither XM nor Sirius made any effort to refute WCA’s position.

Given the state of the record, it is not surprising that the STA acknowledges “there are areas around terrestrial repeaters where [MDS, ITFS and WCS] equipment may be susceptible to blanketing interference” and mandates that “before final rules are adopted, all existing authorized radiocommunication facilities that are in operation during the period that the STA is in effect must be protected from interference caused by SDARS repeaters.”<sup>7</sup> More specifically, the STA

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<sup>4</sup> WCA Comments, at 3-5.

<sup>5</sup> *See id.* at 8.

<sup>6</sup> *See id.* at 8-9.

<sup>7</sup> STA, at ¶13.

requires that "XM . . . immediately reduce the power level or, if necessary, cease operation of any repeater that causes interference to a WCS, MDS or ITFS authorized station upon the receipt of a written, descriptive notification from a WCS, MDS or ITFS licensee identifying the specific source of interference."<sup>8</sup>

To facilitate the process of addressing interference issues, the STA mandates that XM "(1) make available to the WCS licensees and to the Commission, immediately upon request, the locations and technical parameters of all repeaters operating pursuant to this STA, including those operating at or below 2 kW EIRP, and (2) provide the name and telephone number of a point of contact to all WCS licensees and to WCA prior to commencing operation, that will be available on a continuous basis (i.e., 24 hours a day, 7 days a week) to receive reports of actual interference and to take immediate action to correct it."<sup>9</sup> Simply stated, WCA seeks reconsideration of the Bureau's failure to specifically require that XM provide to requesting MDS and ITFS licensees the location and technical parameters of all repeaters operating pursuant to the STA.

WCA suspects that the Bureau's failure to mandate the provision of this information to MDS and ITFS licensees was an inadvertent oversight. Certainly, there is no principled basis for requiring XM to provide that information to WCS licensees, but not to MDS and ITFS

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<sup>8</sup> *Id.* at ¶ 14.

<sup>9</sup> *Id.* Although not the basis for its petition for reconsideration, WCA is certainly troubled by the fact that XM has apparently started operating under the STA but has yet to provide WCA with the telephone number of any designated point of contact that will be available to receive and act upon interference reports. XM's failure to satisfy even this minimal condition on the STA certainly does not bode well for its compliance with other conditions imposed on the STA or that may be imposed in the final rules.

licensees.<sup>10</sup> Indeed, in informal discussions with the Commission's staff, counsel for WCA was advised that XM and Sirius had agreed to make technical information regarding their repeaters available to MDS and ITFS licensees. Based on that information, on September 20, 2001, Sprint Corporation ("Sprint"), a WCA member and MDS licensee, sought access to the technical parameters of XM's and Sirius' terrestrial repeaters. Copies of those requests are annexed as Attachments A and B, respectively. Sirius subsequently agreed to make the information available (although it asserts that it currently is not operating, and has not even identified sites for, any repeaters operating below 2 kw EIRP).<sup>11</sup> However, despite the passage of more than a week, XM has yet to provide any information and has implied that it will not make information available to Sprint because it is an MDS licensee, not a WCS licensee.<sup>12</sup>

In light of the XM's failure to provide Sprint with information regarding XM's terrestrial repeater deployment, WCA has no choice but to seek reconsideration of the STA and the imposition of a specific condition mandating that XM provide technical information regarding its repeaters to requesting MDS and ITFS licensees. Clearly, the same location and technical information XM must provide WCS licensees is equally essential to MDS and ITFS licensees that may be exposed to interference from terrestrial DARS repeaters. Absent the addition of a specific condition on XM's STA, the Commission will be putting in jeopardy existing, *licensed*

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<sup>10</sup> It is worth repeating the point, made in WCA's comments, that WCS licensees are required routinely to provide this information to MDS and ITFS licensees.

<sup>11</sup> See Letter from Carl Frank to Paul Sinderbrand, annexed as Attachment C. It is worth noting that the letter from Sirius addresses repeaters operating above 2000 watts EIRP and those operating below 2000 watts EIRP, but not those operating at 2000 watts EIRP. WCA suspects that this was an inadvertent oversight and that Sirius intended for references to repeaters operating at less than 2000 watts EIRP to include those operating at 2000 watts also.


<sup>12</sup> See Email from Bruce Jacobs to Paul Sinderbrand, annexed as Attachment D.



service to MDS/ITFS subscribers for the benefit of a company that has chosen to construct terrestrial repeater facilities at its own risk prior to the adoption of final rules and licensing.

Respectfully submitted,

WIRELESS COMMUNICATIONS  
ASSOCIATION INTERNATIONAL, INC.

By:   
Paul J. Sinderbrand

Wilkinson Barker Knauer, LLP  
2300 N Street, NW  
Suite 700  
Washington, DC 20037-1128  
202.783.4141

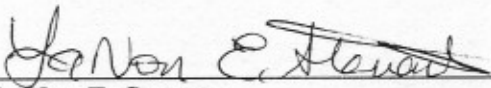
September 28, 2001

**CERTIFICATE OF SERVICE**

I, LaVon E. Stevens, hereby certify that the foregoing Petition for Reconsideration was served this 28th day of September 2001 by hand delivery to:

Bruce Jacobs  
ShawPittman, LLP  
2300 N Street, NW  
Washington, DC 20037

Counsel to XM Radio, Inc.

  
LaVon E. Stevens

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PAUL J. SINDERBRAND  
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September 20, 2001

VIA EMAIL AND HAND DELIVERY

Bruce D. Jacobs  
Shaw Pittman LLP  
2300 N. Street, N.W.  
Washington, DC 20037-1128


Re: *XM Radio, Inc. Terrestrial Repeaters*

Dear Mr. Jacobs:

I am writing on behalf of Sprint Corporation and its various subsidiaries that hold Multipoint Distribution Service licenses (collectively, "Sprint") to request that XM Radio, Inc. provide Sprint with the locations and technical parameters of all terrestrial Digital Audio Radio Service repeaters to be operated pursuant to the special temporary authorization issued by the Federal Communications Commission on September 17, 2001, including those operating at or below 2 kW EIRP. It is my understanding that your client has agreed to make this information available to Multipoint Distribution Service and Instructional Television Fixed Service licensees to facilitate their ability to comply with their obligations under Paragraph 14 of the special temporary authorization to provide your client with written notice of the "specific source of interference" should interference occur. The requested information can be delivered directly to me in electronic format via e-mail or in hard copy to the address listed above.

Please let me know if you have any questions or if my understanding of your client's willingness to provide this information is in error.

Respectfully yours,



Paul J. Sinderbrand

cc: Ron Repasi  
Ron Netro

ATTACHMENT B

WILKINSON ) BARKER ) KNAUER ) LLP

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www.wbklaw.com  
PAUL J. SINDERBRAND  
psinderbrand@wbklaw.com

September 20, 2001

VIA EMAIL AND HAND DELIVERY

Carl R. Frank, Esq.  
Wiley Rein & Fielding  
1776 K Street, N.W.  
Washington, DC 20006


Re: *Sirius Satellite Radio, Inc. Terrestrial Repeaters*

Dear Mr. Frank:

I am writing on behalf of Sprint Corporation and its various subsidiaries that hold Multipoint Distribution Service licenses (collectively, "Sprint") to request that Sirius Satellite Radio, Inc. provide Sprint with the locations and technical parameters of all terrestrial Digital Audio Radio Service repeaters to be operated pursuant to the special temporary authorization issued by the Federal Communications Commission on September 17, 2001, including those operating at or below 2 kW EIRP. It is my understanding that your client has agreed to make this information available to Multipoint Distribution Service and Instructional Television Fixed Service licensees to facilitate their ability to comply with their obligations under Paragraph 14 of the special temporary authorization to provide your client with written notice of the "specific source of interference" should interference occur. The requested information can be delivered directly to me in electronic format via e-mail or in hard copy to the address listed above.

Please let me know if you have any questions or if my understanding of your client's willingness to provide this information is in error.

Respectfully yours,



Paul J. Sinderbrand

cc: Ron Repasi  
Ron Netro





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September 25, 2001

Carl R. Frank  
202.719.7269

VIA E-MAIL

Paul J. Sinderbrand, Esq.  
Wilkinson Barker Knauer LLP  
2300 N Street, NW  
Suite 700  
Washington, DC 20037

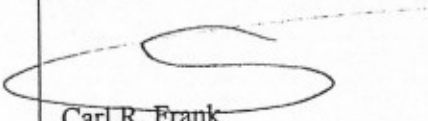
Re: Request for Information on Terrestrial Repeaters

Dear Mr. Sinderbrand:

In your September 20, 2001 letter, you asked Sirius Satellite Radio Inc. ("Sirius") to provide the locations and technical parameters of all repeaters operating pursuant to the STA adopted by the International Bureau and released on September 17, 2001. The Sirius terrestrial repeaters with an EIRP above 2 kW are as specified in Exhibit A of Sirius' STA request. Sirius is investigating the deployment of several repeaters less than 2 kW prior to December 31, 2001. Sirius agrees to notify you once it has selected sites for such repeaters.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Carl R. Frank  
*Counsel to Sirius Satellite Radio Inc.*

cc: Ron Repasi  
Ron Netro

Sinderbrand, Paul

From: Bruce.Jacobs@shawpittman.com  
 Sent: Thursday, September 27, 2001 3:02 PM  
 To: Sinderbrand, Paul  
 Cc: 'rnetro@fcc.gov'  
 Subject: Re: Request for terrestrial repeater information



XM Request.pdf

Paul, My understanding is that Sprint is an MDS licensee and not a WCS licensee. Bruce

<p>"Sinderbrand,          Paul"          &lt;PSinderbrand@w          bklaw.com&gt;</p> <p>09/27/2001          10:46 AM</p>	<p>To: "Bruce D. Jacobs          (E-mail)"          &lt;bruce.jacobs@shawpittman.com&gt;          cc: "'rrepasi@fcc.gov'"          &lt;rrepasi@fcc.gov&gt;,          "'rnetro@fcc.gov'"          &lt;rnetro@fcc.gov&gt;          Subject: Request for          terrestrial repeater information</p>
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Bruce,

One week ago today I emailed and hand-delivered to you a request by Sprint Corp. for information regarding the terrestrial DARS repeaters that XM Radio, Inc. is operating at or below 2000 watts EIRP pursuant to the FCC's recent STA. A copy of that request is attached for your reference. I have yet to receive a response. Particularly since press reports indicate that XM is now operating pursuant to the STA (and thus the potential for interference to Sprint's operations is very real), XM's prompt response to Sprint's request would be appreciated.

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<<XM Request.pdf>>  
 (See attached file: XM Request.pdf)