

FCC Form 312; Response to Question 35

Attached is waiver request regarding the application signature requirement contained in Section 25.112(a) of the Commission's Rules.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

_____)	
Application of)	
Liberty Media Corporation)	File Nos.
For Consent to Transfer of <i>De Jure</i>)	Docket No.
Control of Sirius XM Radio Inc.)	
_____)	

**LIBERTY MEDIA'S REQUEST FOR WAIVER OF TRANSFEROR/LICENSEE
SIGNATURE REQUIREMENTS FOR APPLICATIONS FOR
CONSENT TO TRANSFER OF *DE JURE* CONTROL**

Liberty Media Corporation ("Liberty Media") requests the limited waiver of the Federal Communication Commission's ("Commission") rules as set forth herein. Liberty Media is filing an Application for Consent to Transfer of *De Jure* Control ("Application") of Sirius XM Radio Inc. ("Sirius") and the space station, satellite earth station, wireless, experimental and other FCC licenses¹ and authorizations held by Sirius and/or its subsidiaries. As described in Exhibit 1, which was prepared by Sirius, Sirius has declined to execute the Application. Sirius has represented that it will cooperate fully with the Commission's evaluation of the Application. *Id.*

More specifically, Liberty Media respectfully requests, pursuant to Sections 1.3 and 1.925 of the Commission's Rules, a waiver of the Commission's rules to allow the electronic filing of Form 312, Form 603 and Form 703 applications for consent to transfer of *de jure* control of the Sirius FCC licenses and authorizations without the transferor and/or licensee

¹ A list of the FCC licenses and authorizations held by Sirius and/or its subsidiaries and subject to this waiver request is annexed as Schedule 1.

electronic signatures. Each of the applications includes all transferor/licensee information. Sirius has reviewed the transferor/licensee portions of the Form 312 applications, and Sirius has prepared the transferor/licensee portions of the Form 603 and Form 703 applications. The Commission should grant this waiver request and accept the application forms without the transferor and/or licensee authorized electronic signatures because the application forms include all transferor/licensee information and Sirius has agreed to cooperate fully with the Commission in its evaluation of the applications. Liberty Media respectfully submits that this approach will conserve the Commission's administrative resources and enable each Commission Bureau to consider its respective electronic applications in the normal course.

Section 1.3 of the Commission's Rules states that the Commission may waive any provision of its Rules, either on its own motion or in response to a petition demonstrating "good cause" for the waiver requested. 47 C.F.R. §1.3. The Commission generally finds that good cause exists for a waiver of its rules "where the particular facts make strict compliance inconsistent with the public interest" under the circumstances presented, and "when the relief requested would not undermine the policy objective of the rule in question." *See, e.g., Enhanced 911 Calling Systems*, 20 FCC Rcd. 7709 (2005), at ¶9. The party seeking a waiver must show that, due to "unique or unusual factual circumstances," application of the rule would be "inequitable, unduly burdensome or contrary to the public interest," or would leave the applicant with "no reasonable alternative." *See* 47 C.F.R. §1.925(b); *see also WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972) (agency discretion to proceed through general rules "is intimately linked to the existence of a safety valve procedure for consideration of an application for exemption based on special circumstances").

As set forth in the Application, Liberty Media is seeking Commission consent to the transfer of *de jure* control of Sirius from the current shareholders of Sirius to Liberty Media. Liberty Media already owns 47.3% of the total outstanding shares of Sirius common stock on an as-converted basis² and has stated in its Application that it will have purchased sufficient shares of Sirius' common stock and will convert its Preferred Shares such that the transfer of control will be completed within 60 days of Commission consent. However, Liberty Media will not convert its Preferred Shares in sufficient quantities to own more than 50% of the outstanding common stock of Sirius until the Commission grants its *de jure* transfer of control applications.

Here, Liberty Media is unable to file the necessary electronic applications for consent to the transfer of *de jure* control of the Sirius FCC licenses and authorizations with electronic transferor and/or licensee signatures because as described in Exhibit 1 Sirius declines to execute the application forms and become a party to the applications. Consequently, in order to file the application forms required to obtain Commission consent, Liberty Media respectfully requests a waiver of the following Commission regulations requiring transferor and/or licensee signatures of application forms:

- Section 1.917 requiring electronic signatures for wireless license applications (47 C.F.R. §1.917);
- Section 5.57 requiring electronic signatures for experimental authorization applications (47 C.F.R. §5.57); and
- Section 25.112(a) requiring electronic signatures for satellite and earth station license applications (47 C.F.R. §25.112(a)).

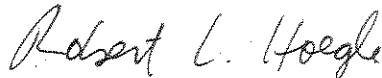
² Pursuant to a second forward purchase contract into which Liberty Media entered, Liberty Media intends to acquire 41,087,753 common shares on the settlement date, which is scheduled for October 14, 2012. As explained in the Application, Liberty Media will own 48% of the total outstanding shares of Sirius (on an as-converted basis) after the October 14 settlement date.

Conclusion

Liberty Media respectfully requests that the Commission waive its application signature rules and accept the application forms for filing. Each of the application forms includes all of the required information for the transferor/licensee which Sirius has confirmed or provided. Only Sirius' signature as a party to the application forms is lacking, for the reasons described in Exhibit 1. Grant of this waiver request is fully justified to enable Commission review of the application forms required of Liberty Media. Further, such grant will conserve the Commission's administrative resources and permit use of the Commission's standard electronic application filing systems.

Respectfully submitted,

LIBERTY MEDIA CORPORATION



Robert L. Hoegle, Esquire *TJB*
Timothy J. Fitzgibbon, Esquire
Thomas F. Bardo, Esquire

Nelson Mullins Riley & Scarborough LLP
101 Constitution Avenue, N.W., Suite 900
Washington, D.C. 20001
(202) 712-2800

August 16, 2012

Schedule 1

FCC LICENSES & AUTHORIZATIONS

Sirius XM Radio Inc.

Call Sign	Class	Expiration
E040363	Earth station	10/19/2019
E060276	Earth station	9/5/2021
E060277	Earth station	10/3/2021
E060363	Earth station	10/30/2021
E080168	Earth station	2/17/2024
E080185	Earth station	10/9/2023
E110172	Earth station	2/15/2027
E990291	Earth station	3/20/2026
S2710	Satellite	8/25/2017
WQKI298	Business radio	5/29/2019
WQPD459	Business radio	4/13/2022
WE2XSS	Experimental	

XM Radio LLC

Call Sign	Class	Expiration
S2118	Satellite	5/31/2014
S2119	Satellite	3/31/2014
S2616	Satellite	12/15/2014
S2617	Satellite	4/20/2013
S2786	Satellite	12/2/2018
E040204	Earth station	8/6/2019
E000724	Earth station	1/22/2026
E000158	Earth station	3/20/2026
WQJP534	Wireless	10/1/2012
WB2XCA	Experimental	9/1/2012

Satellite CD Radio LLC

Call Sign	Class	Expiration
S2105	Satellite	2/11/2017
S2812	Satellite	