

Comments regarding MM Docket No. 04-160

ADX Communications of Pensacola is licensee of Station WYCT(FM) in Pensacola, Florida. The station is owned by David E. Hoxeng, a full-time broadcaster. He and his wife, Mary, reside in the community. Mary is the WYCT General Manager. Together, they work 14 hour days as local broadcasters successfully serving the Pensacola community.

The FCC, during the authorization of satellite radio, vowed to protect “vibrant” local broadcasting, and promised to take “any necessary action to safeguard the important service that terrestrial radio provides.” Before the two national satellite companies further raise consumer’s expectations about their ability to receive specific localized content, the FCC must recognize the following:

- ? that it authorized a national-only satellite radio service
- ? in the alternative, the FCC must hold the satellite radio companies to the same standards and burdens of local public service including EAS requirements

The number one goal at WYCT is to serve our community. It broadcasts live and local Monday through Friday 5 AM-7 PM, and Saturday and Sunday 7 AM -6 PM. Nights are voice tracked using local talent. In addition to the routine expense of running a music-based radio station, it spends an additional approximately \$4,000 per month for salaries to provide news and informational programming, *i.e.*, to pay a newsman salary and benefits, for a news and traffic reporting infrastructure, and to support local community events. WYCT’s financial ability to provide these local services will be threatened by national satellite programmers if they are permitted to skim the cream (localized news and traffic) without providing full-blown public interest obligations.

What must not be forgotten is the following:

- ? WYCT is a local radio station that serves the public interest, convenience and necessity, and constantly invests in community and public service.

ADX’s owner, David Hoxeng, has extensive knowledge about and experience with XM Radio, Inc. (“XM”). He has been a paid XM subscriber since October 10, 2001, during XM’s first month of operation. He has had an investment in XM stock since October 28, 1999. XM has done nothing for local communities such as Pensacola. Specifically, XM has made no investment in Pensacola other than installing some “repeater” transmitters and paying \$20 sales commissions to car radio installers.

- ? XM is a national communications provider that has no obligation to local community service.

ADX supports the points and positions taken by the NAB in its Petition for Declaratory Ruling dated April 14, 2004.

In granting licenses for satellite radio, the FCC relied on the express promises by XM Radio Inc. (“XM”) and Sirius Satellite Radio Inc. (“Sirius”) that although their service would provide multiple foreign language programming, senior citizens and children’s programming, etc., their service would be national-only. Because satellite radio would be national, local broadcasters would not be harmed.

Now XM and Sirius have blatantly broken their promises, launching “localized” traffic and weather service in the top twenty-one markets.

It is clear from the comments they filed in opposition to the NAB Petition that XM and Sirius view the sky as the limit ? with technology to continue to “localize” their services they can make their formats virtually indistinguishable from local radio. Without FCC intervention, two companies, with 120 channels each, will reach into every market and try to mimic certain aspects of what local broadcasters do, but without taking on a broader role in the community or meaningfully providing local community services.

Satellite Radio doesn’t have public interest limits or ownership limits and they have no *local* investment in their communities. The \$9.6 billion broadcasters gave to their local communities in 2003 speaks volumes to our commitment to public service.

In short, WYCT urges the Commission to make clear that satellite digital audio radio service (“SDARS”) providers are prohibited from:

- (1) using any technology to permit the delivery of content that would be aired on a receiver in one location that differs from the content that would be aired on a receiver in a different location; and
- (2) providing locally oriented services on nationally distributed channels.
Alternatively, the Commission should re-open the SDARS proceeding to evaluate the impact of the service on local broadcasting, a finding the FCC specifically did not make in the 1997 *Report and Order* since SDARS was to be a national-only service.