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April 10, 2001

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas, Secretary  
Federal Communications Commission  
The Portals, 445 12th Street, S.W.  
Washington, D.C. 20554

Re: ET Docket 98-153 /  
Revision of Part 15 of the Commission's Rules Regarding Ultra-  
Wideband Transmission Systems  
Ex Parte Presentation

Dear Ms. Salas:

In the *ex parte* letter submitted April 2, 2001 by Fantasma Networks, Inc. ("*Fantasma*") reveals a complete misunderstanding of the position taken in the UWB proceeding as reflected in the March 27 joint letter signed by Sirius Satellite Radio ("*Sirius*") and 25 other entities. Fantasma misunderstands the data in the record concerning interference caused by non-GPS band UWB devices, continues to ignore its own burden of proof in this matter, and reached the mistaken conclusion that immediate Commission action is warranted.

As it has stated before, Sirius is concerned that the Commission will move precipitously to a final determination based on the current inconclusive record. Due to the vagueness of the NPRM (particularly regarding the definition and characteristics of UWB devices), the lack of completed testing, the diversity of testable devices, and the apparent desire to include as-yet-undeveloped devices, Sirius is unable to determine what form a final rule might take. For this reason, Sirius continues to believe that the Commission's issuance of a final rule under these circumstances would violate basic notions of fairness as well as the Administrative Procedure Act. Affected parties, like those who signed the joint filing letter to the Commission, should have the opportunity to comment and respond to specific rules and regulations that may be proposed by the Commission.

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Ms. Magalie R. Salas, Secretary  
April 10, 2001  
Page 2

Fantasma distorts the little evidence which is before the Commission regarding UWB devices in non-GPS bands, and its conclusion that these devices can now be permitted is simply wrong. Fantasma claims that there is “ample record support for fast Commission action on non-GPS UWB technology.”<sup>1</sup> In fact, testing on the effect of UWB devices on non-GPS systems is hardly complete, and those tests performed to date indicate interference with incumbent systems. For example, NTIA’s test of non-GPS systems was only an initial inquiry. NTIA had a limited number of UWB devices available to it. Furthermore, the test focussed on federal receivers only. Finally, the test did not fully address critical issues such as aggregate effects of multiple UWB devices.

More importantly, NTIA’s test confirmed that deployment of UWB devices below 3.1 GHz would present significant interference issues for both governmental and commercial, licensed systems. Testing beyond NTIA’s initial findings may well show interference above 3.1 GHz as well. Comments in support of UWB from proponents or from public interest groups does not constitute record evidence to the contrary.

In fact, the record before the Commission is similar regarding UWB devices in all bands. Testing completed to date shows that UWB devices could significantly interfere with already licensed systems. There has been insufficient testing of all UWB devices, in part because many are still under development, to know the full interference effect of UWB devices on licensed systems. Furthermore, critical issues (such as aggregate effects, effect of mobile UWB devices, or effects of UWB devices on mobile licensed systems) have yet to be addressed.

The interference effects of UWB devices are still not clearly understood. Fantasma’s request that the FCC rush to approve a broad use of UWB devices in non-GPS spectrum could cause disruptions in many services, including personal communications, Enhanced 911 (E911) services, licensed radio services, and GPS services. The FCC should make determinations about the use of UWB technology only as testing is completed and analyzed for harmful interference to existing systems.

UWB proponents like Fantasma have the burden of proof to show that UWB devices can operate without interference to existing, licensed systems. Based on the testing that has been done to date and the information in the record, UWB proponents have not made this showing.

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<sup>1</sup> See *ex parte* letter on behalf of Fantasma Networks, Inc. at 3, ET Docket 98-153 (filed April 2, 2001)

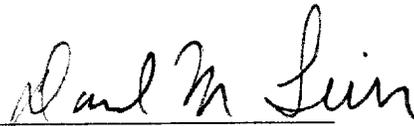
Ms. Magalie R. Salas, Secretary

April 10, 2001

Page 3

Fantasma and other UWB proponents can not shift their burden to licensed users. The FCC should not approve these devices until proponents can adequately prove that they will not cause interference with licensed systems.

Sincerely,

By:   
David M. Leive  
Counsel to Sirius Satellite Radio

cc: Chairman Michael K. Powell  
Commissioner Susan Ness  
Commissioner Harold Furchtgott-Roth  
Commissioner Gloria Tristani