SATELLITE
RADIO

August 17, 2004

Via Electronic Filing
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: XM Radio Inc.
Written *Ex Parte* Presentation
ET Docket No. 00-258; WT Docket No. 02-8

Dear Ms. Dortch:

XM Radio Inc. ("XM Radio") hereby withdraws the part of its proposal in the above-captioned proceeding that requests more stringent out-of-band emission ("OOBE") limits for aeronautical mobile transmitters used in conjunction with new flight test operations in the 2360-2395 MHz band.[1] Based on discussions with the Aerospace and Flight Test Radio Coordinating Council ("AFTRCC"), it is XM Radio's understanding that the vast majority of aeronautical telemetry transmissions in this band occur at an altitude that is high enough that interference is unlikely. XM Radio continues, however, to urge the Commission to impose the proposed limits on Government aeronautical mobile operations that are relocated to the band and to fixed transmitters used in conjunction with new non-Government flight test operations in the band.

In July 2003, the Commission issued a *Fourth Notice of Proposed Rulemaking* ("*Fourth NPRM*") proposing to license non-Government flight test stations in the 2385-2395 MHz band and to allocate the 2360-2395 MHz band for all forms of Government aeronautical mobile operations on a primary basis.[2] The Commission requested comment on the "appropriate out-of-band emission limits that are necessary to protect [satellite radio] reception from both aeronautical (ground) stations and from aircraft stations." *Fourth NPRM* ¶ 60.

In Joint Comments submitted on November 3, 2003, XM Radio and Sirius Satellite Radio Inc. ("Sirius") proposed that the Commission require all new Government and non-Government operators in the 2360-2395 MHz band to meet the same OOBE limits that the Commission adopted for 2.3 GHz Wireless Communications Service ("WCS") licensees to protect satellite

---

[1] *See* Joint Comments of Sirius and XM Radio, ET Docket No. 00-258, WT Docket No. 02-8 (November 3, 2003).

[2] *Amendment of Part 2 of the Commission's Rules, Fourth Notice of Proposed Rulemaking*, 18 FCC Rcd 13235 (2003) ("*Fourth NPRM*").

radio from interference. 47 C.F.R. § 27.53(a). Specifically, the comments proposed that new aeronautical mobile transmitters in the 2360-2395 MHz band should be required to attenuate emissions into the 2320-2345 MHz satellite radio band below the transmitter power (p) by a factor of 110 + log (p) dB. 47 C.F.R. § 27.53(a)(2). The comments also proposed that new fixed transmitters in the 2360-2395 MHz band should be required to attenuate emissions into the 2320-2345 MHz satellite DARS band below the transmitter power (p) by a factor of 80 + log (p) dB. 47 C.F.R. § 27.53(a)(1).

XM Radio no longer proposes that the Commission adopt more stringent OOBE limits for aeronautical mobile transmitters used in conjunction with new flight test operations in the 2360-2395 MHz band. XM Radio's discussions with AFTRCC, which represents non-Government flight test operators, have clarified that there is minimal potential for aeronautical mobile transmitters used in conjunction with flight test operations to interfere with satellite radio reception. These aeronautical transmitters operate close to the ground for only a short period of time. Most transmissions take place at altitudes where the separation distance between the aeronautical transmitter and a satellite radio results in sufficient signal attenuation to avoid interference with satellite radio reception. This does not present a case such as ultra-wideband or 2.4 GHz unlicensed devices where transmitters are located in close proximity to satellite radios and thereby present significant potential for interference.

XM Radio withdraws its proposal only with respect to aeronautical mobile transmitters used in conjunction with new flight test operations in the 2360-2395 MHz band. For the reasons discussed in the Joint Comments, XM Radio continues to urge the Commission to impose the applicable WCS OOBE limits on Government aeronautical mobile operations relocated to the 2360-2395 MHz band as well as to fixed transmitters used in conjunction with new non-Government flight test operations in the 2360-2395 MHz band. The operating parameters of these transmitters are unclear and there is no evidence that transmissions will occur only at altitudes high enough to avoid interference to satellite radio.

Respectfully submitted,

XM RADIO INC.

By: /s/Lon C. Levin

Lon C. Levin
Senior Vice President
1500 Eckington Place, NE
Washington, DC 20002
(202) 380-4000

August 17, 2004

cc: William Keane, Counsel for AFTRCC
Daniel Jablonski, AFTRCC

Document #: 1423747 v.1