

## Radio merger waiting on FCC

Now that the Justice Department has endorsed the \$13 billion marriage of XM Satellite Radio and Sirius Satellite Radio, all eyes are on the Federal Communications Commission, which could hinge approval on one or more conditions.

So far, District-based XM and Sirius of New York have introduced an "a la carte" programming scheme that includes packages priced at less than the companies' existing \$12.95 monthly subscription fees. The companies also promised to introduce "interoperable" radios capable of receiving both signals.

But a slew of proposed merger conditions from interested parties have cropped up in recent months.

Private equity group Georgetown Partners wants the commission to require a combined XM and Sirius to lease one-fifth of their total channel capacity and infrastructure to a "totally independent and unaffiliated third party, such as Georgetown, to remedy the anti-competitive monopoly that would otherwise result," according to the company's FCC filing.

HD Radio pioneer iBiquity Digital thinks any new satellite-radio receivers should be equipped to play both over-the-air broadcast radio and HD radio, a requirement it says should last for three years in cars and one year for stand-alone radios.

The nonprofit Media Access Project urges any approval to be contingent on the company relinquishing half its spectrum, which would be used as either a set-aside for educational programming, leased to another commercial firm or returned to the FCC for a federal auction. D.C. public interest group Public Knowledge likewise calls for a set-aside (5 percent of channel capacity) for educational broadcasters, but also urges a three-year freeze on the new company's combined programming.

Those groups and others endorse a proposal from U.S. Electronics, which makes car devices, that calls for an "open access" condition to force the companies to allow any hardware manufacturer to make a satellite-radio receiver.

Of all the wish lists, Clear Channel Communications' appears to be the longest. The radio giant wants half of the satellite-radio spectrum to go to a competitor, as well as a 5 percent "public interest set-aside." Clear Channel also wants a prohibition on local

programming and local advertising revenues. Like iBiquity, it wants HD radio receivers embedded in satellite-radio receivers.

Clear Channel's most ambitious request is that satellite-radio content — which unlike broadcast is based on a pay-to-play model — be subject to broadcast indecency standards.

The Justice Department on Monday approved the merger with no conditions, concluding it is not likely to harm consumers. The FCC proceeding is separate, but the agency typically is influenced by the department's assessment of market conditions.

Alan Dozinger, a professor at Villanova School of Business, said the FCC likely will consider issues affecting satellite subscribers, such as pricing and equipment. The companies have said that no radios will be made obsolete by the merger, but Mr. Dozinger noted that XM uses geosynchronous technology and Sirius uses a low-orbit satellite.

"It won't be so hard for [Sirius and XM] to satisfy future subscribers, but what are they going to do about the 17 million people who already have these systems? I suspect the FCC will put something down on that," he said.

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