

STATEMENT OF COMMISSIONER DEBORAH TAYLOR TATE
RE: *XM Radio, Inc. Order and Consent Decree*

Beginning in 1927 with its predecessor, one of the core purposes for the Federal Communications Commission was to ensure that licensees operate in accordance with technical specifications of their license. Adherence to Commission authorizations ensures that all spectrum licensees can make efficient use of the bandwidth they have been allocated. That is why I felt it imperative to resolve these outstanding enforcement issues before moving to consideration of this merger.

The licensee that is the subject of today's voluntary forfeiture and consent decree failed to comply—knowingly and repeatedly, at the highest levels of management—with the specifications for its FM modulators and the terms of its Special Temporary Authorizations (“STAs”) for more than five years. I believe the Consent Decree we adopt today reflects the gravity of the violations, and the seriousness with which I view them.

XM has agreed to a voluntary contribution of \$17,394,375 for operating terrestrial repeaters at variance from their specification, and authorizing non-compliant FM modulators. In addition, XM has entered into a consent decree that mandates strict compliance with certifications, reporting requirements, and penalties associated with future violations. Specifically, XM has agreed to the following:

- A Compliance Plan to remain in effect for five (5) years, requiring reporting every three (3) months; almost twice the FCC's customary compliance plan period.
- Hire FCC Compliance Officer responsible for ensuring future compliance with Act and Commission rules;
- Adopt Procedural Guide establishing procedures for testing, certifying and making modifications to satellite radio receivers and Repeater Change Guide establishing procedures for making any changes to terrestrial repeater network;
- Conduct audits of randomly selected satellite radio receivers to ensure compliance;
- Establish an FCC Compliance Training Program for all employees who engage in activities subject to FCC regulation;
- Provide notices to subscribers offering various technical fixes to non-compliant radio receivers at no cost to subscriber via its website, subscriber newsletter and automated telephone response;
- Broadcast on-air notices to subscribers regarding non-compliant radio receivers;
- Replace non-compliant radio receivers returned by consumers for repair or warranty claims with compliant devices; and
- Submit periodic compliance reports to FCC.

With regard to terrestrial repeaters, within 60 days XM will shut down or bring into compliance 100 of its repeaters. All others will be referred to the FCC's International Bureau for processing.

Administration of effective spectrum policy requires that licensees comply with Commission rules and that the Commission is vigilant in its oversight. This will foster a level playing field for competition and encourage technological innovation. The American public requires and deserves no less.