Study confirms XM-Sirius merger constitutes a monopoly

by Bend_Weekly_News_Sources

A study sent yesterday to the Federal Communications Commission and the Department of Justice demonstrates that the proposed merger between XM and Sirius would create a monopoly, constituting a likely violation of the antitrust laws.

Conducted by one of the country's leading economists and scholars, the study lends concrete evidence and analysis to some of the most important questions that have plagued lawmakers since the merger was announced earlier this year.

As lawmakers on Capitol Hill began to focus increasingly on what the relevant product market is for satellite radio and what impact this merger would have on consumers, the Consumer Coalition for Competition in Satellite Radio ("C3SR") -- the only group solely dedicated to protecting the interests of the over 14 million satellite radio subscribers in the United States -- approached J. Gregory Sidak of Criterion Economics, L.L.C to prepare an expert declaration analyzing the likely competitive impact of the proposed merger of XM and Sirius.

Specifically, Sidak, a former Deputy General Counsel for the FCC, was asked to determine whether subscription-based satellite digital audio radio services ("SDARS") are a relevant product market for antitrust purposes, and to assess the unilateral pricing effects of the proposed merger in the relevant product market.

Major Findings of the Criterion Study:

*Distinct Market: SDARS are a distinct antitrust product market.

*Anti-Competitive: The proposed merge would be anti-competitive as (i) it constitutes a monopoly under the most reasonable market definition; and (ii) even under a more expansive market definition the proposed merger would increase seller concentration ratios to unacceptably high levels.

*Consumer Benefit: The majority of efficiencies identified by XM and Sirius would not benefit consumers.

*Consumer Welfare: The conditions offered by XM and Sirius would not preserve consumer welfare.

The study took into account competition from other audio products such as MP3 players and Internet radio, and determined that satellite radio is a distinct product market for antitrust analysis. Even when the product market is expanded to include AM, FM and HD radio, the proposed XM-Sirius merger still raises serious antitrust concerns.

"Regardless of the definition, a satellite radio merger still has an antitrust component that must be thoroughly examined by the Department of Justice and the Federal Communications Commission," said Sidak. "No matter how you slice it, dice it or package it, the merger of XM and Sirius would establish a monopoly, which are typically characterized by a lack of economic competition for the good or service that they provide, as well as a lack of viable substitute goods."

The results of the study give subscribers further cause for concern about the future of their satellite radio service and strongly suggest that Sirius-XM would have the incentive and opportunity to raise prices and cut programming. "This study confirms, empirically, what we have been stressing since before this merger was even announced: subscribers do not view their satellite radio service as a substitute for other forms of entertainment, and a merged provider would be able and motivated to raise prices and cut back the programming that so many listeners value and depend on," said Chris Reale, a founder of C3SR.

The study could prove to be an important component for Congress, the FCC, and the DOJ in determining whether or not to approve Sirius and XM's merger proposal, as it addresses many of the questions posed by lawmakers in a series of hearings held earlier this month.

A complete copy of the Criterion study is available for download at http://www.c3sr.org/.