

Sirius plans to buy XM in \$4.6 billion stock deal

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NEW YORK (Reuters) -- Sirius Satellite Radio plans to buy U.S. rival XM Satellite Radio for \$4.6 billion in stock to bring entertainers such as Oprah Winfrey and shock-jock Howard Stern under one roof, but a top regulator said the deal would face a tough time winning approval.

Under the agreement announced by the two companies on Monday, XM shareholders would receive 4.6 Sirius shares for each XM share held, or a 21.7 percent premium based on the two companies' Friday closing prices.

The deal to create a company with about \$1.5 billion in 2006 revenue could benefit fans of Stern, Oprah, singer Bob Dylan, Major League Baseball and motivational guru Deepak Chopra, whose programs are split between the services. In time, subscribers may be able to pick the shows they prefer and pay a related monthly fee, much like cable TV.

But the proposed merger will likely face objections from terrestrial radio companies and undergo tough scrutiny from regulators that want to ensure consumer prices do not increase as a result of less competition.

U.S. Federal Communications Commission Chairman Kevin Martin said the agency would review the deal but the hurdle "would be high as the commission originally prohibited one company from holding the only two satellite radio licenses."

Martin said the companies would have "to demonstrate that consumers would clearly be better off with both more choice and affordable prices."

XM and Sirius argue they should be allowed to combine as they compete with every audio device that consumers use -- from typical car radios to digital music players. As one company, they said they can offer improved services at flexible prices.

Sirius Chief Executive Mel Karmazin and XM Chairman Gary Parsons told Reuters in a phone interview that they hope to meet with the FCC "shortly."

"We are confident we will get this through the regulatory arena by the end of this year," Parsons said. "Over a decade ago when the first satellite licenses first came out, there were no iPods, there was no HD radio, there were no streaming music on cell phones."

Parsons said the merger agreement carries a break-up fee of \$175 million.

SHARE DECLINE

XM and Sirius shares have tumbled on investor concerns about slowing growth and the cost of building their services. Both companies have yet to turn a net profit.

XM shares closed at \$13.98 on Friday, down 42 percent from their 52-week high of \$24.21 last April. Sirius shares are down 34 percent from their year high of \$5.57 last April.

Karmazin, who would continue as CEO of the combined company with Parsons as chairman, said the share price declines quickened the pace of merger talks.

"We both knew that we that we needed to capture these (cost savings)," he told Reuters. "So we said let's stop bickering over who gets 51 percent...and let's put it together."

Sirius would be paying about \$4.6 billion in stock for XM based on shares outstanding in the latest regulatory filings.

While the companies called the deal a "merger of equals," Sirius would own about 53 percent of the shares of the combined entity and XM would own about 47 percent based on the terms of the deal and shares outstanding in the latest filings.

"I think it's a close call, but more likely than not I think the Justice Department and the FCC approve it," said Blair Levin, an analyst at Stifel Nicolaus & Co. and a former FCC chief of staff during the Clinton administration.

The National Association of Broadcasters, which represents local broadcast radio stations, criticized the tie-up because it would concentrate the licenses into one company.

"Now, with their stock prices at rock bottom and their business model in disarray because of profligate spending practices, they seek a government bailout to avoid competing in the marketplace," said NAB spokesman Dennis Wharton.

Karmazin and Parsons said they planned to continue to support devices offered by both companies while developing a new product that would work on both satellite radio services.

Makers of tuner connectors for Sirius include Sony Corp., Pioneer Corp. and Kenwood Corp., while those for XM include Samsung Electronics Co. and Audiovox Corp.

Takeovers often reduce the number of suppliers, but that's unlikely in this case because many users will opt to plug radio tuners into existing audio systems, analysts said.

"Satellite radio companies are out to win new subscribers by making sure their tuners are compatible with all kinds of audio systems. There isn't much sense in cutting suppliers here," said Eiichi Katayama, analyst at Nomura Securities Co.

In any case, consumers may have to wait for new radios or talent, while XM and Sirius devote their attention to passing regulatory muster, warned Janco Partners analyst April Horace.

"I worry about stagnation," she said. "I worry that both companies will be more focused on regulatory issues than they will be on the consumer. My concern is that we are going to see less activity, less innovation."

The two companies, whose enterprise value is about \$13 billion including \$1.6 billion in net debt, said they would work together to determine the combined company's name and headquarters.

XM CEO Hugh Panero would continue in his current role until the merger closes.

PRESS RELEASE: SIRIUS and XM to Combine in \$13 Billion Merger of Equals

- Provides Consumers with Enhanced Content, Greater Choices and Accelerated Technological Innovation
- Enables Satellite Radio to Better Compete in Rapidly Evolving Audio Entertainment Industry
- Extraordinary Value Creation for Shareholders
- Mel Karmazin to Serve as Chief Executive Officer and Gary Parsons to Serve as Chairman of Combined Company

WASHINGTON and NEW YORK -- XM Satellite Radio (NASDAQ:XMSR) and SIRIUS Satellite Radio (NASDAQ:SIRI) today announced that they have entered into a definitive agreement, under which the companies will be combined in a tax-free, all-stock merger of equals with a combined enterprise value of approximately \$13 billion, which includes net debt of approximately \$1.6 billion.

Under the terms of the agreement, XM shareholders will receive a fixed exchange ratio of 4.6 shares of SIRIUS common stock for each share of XM they own. XM and SIRIUS shareholders will each own approximately 50 percent of the combined company.

Mel Karmazin, currently Chief Executive Officer of SIRIUS, will become Chief Executive Officer of the combined company and Gary Parsons, currently Chairman of XM, will become Chairman of the combined company. The new company's board of directors will consist of 12 directors, including Messrs. Karmazin and Parsons, four independent members designated by each company, as well as one representative from each of General Motors and American Honda. Hugh Panero, the Chief Executive Officer of XM, will continue in his current role until the anticipated close of the merger.

The combined company will benefit from a highly experienced management team from both companies with extensive industry knowledge in radio, media, consumer electronics, OEM engineering and technology. Further management appointments will be announced prior to closing. The companies will continue to operate independently until the transaction is completed and will work together to determine the combined company's corporate name and headquarters location prior to closing.

The combination creates a nationwide audio entertainment provider with combined 2006 revenues of approximately \$1.5 billion based on analysts' consensus estimates. Today the companies have approximately 14 million combined subscribers. Together, SIRIUS and XM will create a stronger platform for future innovation within the audio entertainment industry and will provide significant benefits to all constituencies, including:

- **Greater Programming and Content Choices** -- The combined company is committed to consumer choice, including offering consumers the ability to pick and choose the channels and content they want on a more a la carte basis. The combined company will also provide consumers with a broader selection of content, including a wide range of commercial-free music channels, exclusive and non-exclusive sports coverage, news, talk, and entertainment programming. Together, XM and SIRIUS will be able to improve on products such as real-time traffic and rear-seat video and introduce new ones such as advanced data services including enhanced traffic, weather and infotainment offerings.
- **Accelerated Technological Innovation** -- The merger will enable the combined company to develop and introduce a wider range of lower cost, easy-to-use, and multi-functional devices through efficiencies in chip set and radio design and procurement. Such innovation is essential to remaining competitive in the consumer electronics-driven world of audio entertainment.
- **Benefits to OEM and Retail Partners** -- The combined company will offer automakers and retailers the opportunity to provide a broader content offering to their customers. Consumer electronics retailers, including Best Buy, Circuit City, RadioShack, Wal-Mart and others, will benefit from enhanced product offerings that should allow satellite radio to compete more effectively.
- **Enhanced Financial Performance** -- This transaction will enhance the long-term financial success of satellite radio by allowing the combined company to better manage its costs through sales and marketing and subscriber acquisition efficiencies, satellite fleet synergies, combined R&D and other benefits from economies of scale. Wall Street equity analysts have published estimates of the present value of cost synergies ranging from \$3 billion to \$7 billion.
- **More Competitive Audio Entertainment Provider** -- The combination of an enhanced programming lineup with improved technology, distribution and financials will better position satellite radio to compete for consumers' attention and entertainment dollars against a host of products and services in the highly competitive and rapidly evolving audio entertainment marketplace. In addition to existing competition from free "over-the-air" AM and FM radio as well as iPods and mobile phone streaming, satellite radio will face new challenges from the rapid growth of HD Radio, Internet radio and next generation wireless technologies.

"We are excited for the many opportunities that an XM and SIRIUS combination will provide consumers," said Gary Parsons, Chairman of XM Satellite Radio and Hugh Panero, CEO of XM Satellite Radio, in a joint statement. "The combined company will be better positioned to compete effectively with the continually expanding array of entertainment alternatives that consumers have embraced since the Federal Communications Commission (FCC) first granted our satellite radio licenses a decade ago."

"This combination is the next logical step in the evolution of audio entertainment," said Mel Karmazin, CEO of SIRIUS Satellite Radio. "Together, our best-in-class management team and programming content will create unprecedented choice for consumers, while creating long-term value for shareholders of both companies. The combined company will be positioned to capitalize on SIRIUS and XM's complementary distribution and licensing agreements to enhance availability of satellite radios, offer expanded content to subscribers, drive increased advertising revenue and reduce expenses. Each of our companies has a strong commitment to providing listeners the broadest range of music, news, sports and entertainment and the best customer service possible. We look forward to sharing the benefits of the exciting new growth opportunities this combination will provide with all of our stakeholders."

The transaction is subject to approval by both companies' shareholders, the satisfaction of customary closing conditions and regulatory review and approvals, including antitrust agencies and the FCC. Pending regulatory approval, the companies expect the transaction to be completed by the end of 2007.

SIRIUS's financial advisor on the transaction is Morgan Stanley and Simpson Thacher & Bartlett LLP and Wiley Rein LLP are acting as legal counsel. XM's financial advisor on the transaction is J.P. Morgan Securities Inc. and Skadden Arps, Slate, Meagher & Flom LLP; Jones Day; and Latham & Watkins LLP are acting as legal counsel.