

Statement of  
**The Honorable Herb Kohl**

United States Senator  
Wisconsin  
March 20, 2007

Statement of U.S. Senator Herb Kohl  
"The XM-Sirius Merger: Monopoly or Competition from New Technologies"  
March 20, 2007

Today we are meeting to consider the proposed merger between the nation's only two national satellite radio services, XM and Sirius. This merger would eliminate competition between the only two satellite radio providers. And, we all agree that there is no prospect for a new satellite radio company to enter the marketplace. But that does not end our analysis. The question is not merely whether this merger would create a monopoly in satellite radio, but rather whether satellite radio is a distinct market so that consumers will have no real alternative should the combined company raise its price.

XM and Sirius provide a very attractive service of hundreds of channels of music, entertainment, sports, news and special interest content to consumers, broadcast in crystal clear sound quality. Much of their content -- whether specialty music channels, out of town broadcasts of pro football or major league baseball, major entertainment talent such as Oprah Winfrey or Howard Stern -- is unique to satellite radio and not duplicated by conventional over the air broadcasts. Unlike over the air radio, satellite radio is a mobile, national service, and its channels are available in every city and every rural area throughout the nation.

The merging companies and others who defend this deal argue that there exists ample competition from free over the air radio, and from new technologies such as wireless internet radio and the iPod, so that we shouldn't worry. As a result, they argue, the combined company will have no power to raise prices.

But we must view these claims with a healthy degree of skepticism. Over the air radio does not come close to duplicating the impressive array of program offerings of satellite radio. It also appears to us that iPods and other new technologies are either too new, too expensive, or too different from satellite to be included in the same market definition.

Mr. Karmazin, the last time you came before us was in 1999 when you were supporting the CBS/Viacom merger. At that time, I told you we thought that deal "created more synergy than suspicion," and we did not oppose the deal. This time, we are more suspicious.

So the burden of proof is squarely on you, Mr. Karmazin, to prove to us that our suspicions regarding monopoly and market power are unfounded. So while we do not doubt that this deal will be good for you and your shareholders, we have real worries that what may be a fabulous

monopoly for you will be a real bad deal for consumers. You must explain to us why competition truly exists in the market. Most of all, you must convince us that consumers will not be harmed and forced to pay more once you have merged with your competitor.

# # #