

Statement of
The Honorable Herb Kohl

United States Senator
Wisconsin
June 16, 2009

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Chairman, Senate Antitrust, Competition Policy &
Consumer Rights Subcommittee

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Hearing on "Cell Phone Text Messaging Rate Increases and the State of Competition in the Wireless Market"

Today we examine the state of competition in the cell phone industry. The enormous growth in the use of cell phones means that maintaining competition in this industry is more important than ever. With more than 270 million subscribers, cell phones are a vital means of communications for the vast majority of Americans. Cell phones enable instantaneous communications for millions wherever they are located, whether at work, at home, away from home, in their car, or anywhere in between. Many Americans - over 20% -- have now discarded traditional land line phones and depend entirely on cell phones. The ease, convenience, and universal nature of today's cell phone service would have been unimaginable just two decades ago.

For many years as this industry developed, it was a competition success story - with many rivals and vigorous price competition. In recent years, however, the picture has changed. Consolidation has left this industry highly concentrated. Four national carriers now control over 90% of the cell phone market. Two of them - today's witnesses AT&T and Verizon - combine to have a market share of 60%. Consumers' choices have become quite limited, and price wars seem to be a thing of the past. American consumers pay more for wireless phone service than most other developed nations - an average of \$506 per year in 2007.

Nowhere is the changed market for cell phones more noticeable than in text message service. These short, instant messages delivered via cell phones have become enormously popular. In 2008, more than one trillion text messages were sent, more than triple the number of just two years before.

As their popularity has grown, so has the price charged on a per message basis. From 2006 to 2008, the price of sending and receiving a text message among the four largest cell phone carriers increased by 100% -- from 10 to 20 cents per message. The four companies increased their text messaging prices in two steps -- first from 10 to 15 cents, and then from 15 to 20 cents -- within months or weeks of each other. These lockstep price increases occurred despite the fact that the cost to the phone companies to carry text messages is minimal - estimated to be less than a penny per message - and has not increased.

The phone companies defend these price increases by asserting that they have not been coordinated in any respect. They also point out that the majority of cell phone customers do not pay for text messages on a per message basis, but instead buy plans for "buckets" of text messages, typically starting at \$5 for 200 messages. Nonetheless, these sharp price increases raise concerns.

Are these price increases the result of a lack of competition in a highly concentrated market? Will consumers continue to see similar price increases for this and many other wireless services that they have come to increasingly depend on, such as internet connections and basic voice service? Do text message price increases represent a warning sign for the state of competition in the cell phone industry as a whole?

The concentrated nature of today's cell phone market should make us wary of other challenges to competition in this industry. For example, smaller competitors raise serious questions about practices that prevent them from being able to fairly compete. These range from exclusive deals that deny competitors access to the most in-demand cell phones, to limitations on the ability of new competitors to roam on other providers' networks, to difficulties in obtaining needed spectrum. It is imperative that we work to remove undue barriers to competition to ensure consumers the best rates and services.

We therefore urge the FCC take all necessary action to remove each of these barriers to competition. Removing these barriers will ensure that the cell phone market is open to competition and prevent the large carriers from gaining a stranglehold on this market. We also urge the Justice Department to closely scrutinize future mergers and allegations of anti-competitive practices in this industry.

Today's hearing thus comes at a critical time for competition in the cell phone industry. I look forward to the testimony of our panel of witness on this important topic.