

United States Senate

WASHINGTON, DC 20510-1604

June 10, 2008

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy:

As a member of the Subcommittee on Antitrust, Competition Policy and Consumer Rights, I am writing to request that you seek for all members of the Judiciary Committee an un-redacted copy of the enclosed May 27, 2008 letter, from Julian Shepard, Counsel to the Consumer Coalition for Competition in Satellite Radio, to the Federal Communications Commission (FCC). The letter raises possible contradictions between "highly confidential" documents filed with the Commission by Sirius Satellite Radio and testimony given before Congress by Sirius CEO Mel Karmazin. In its redacted form, this letter is a public document. It was provided to me and other members of the Subcommittee by former U.S. Attorney General Dick Thornburgh, also Counsel to the Consumer Coalition for Competition in Satellite Radio. The redacted letter raises issues of great importance to the full Committee and the Subcommittee in our oversight of the enforcement of our Nation's antitrust laws. These issues must be investigated fully by the Committee before the FCC reaches its final decision on the proposed merger of Sirius and XM.

The public interest standard applied to merger reviews by the FCC includes consideration of the antitrust laws. The enclosed letter raises issues of a serious nature under the antitrust laws which require a review of certain non-public documents in the possession of the FCC. I am very troubled by the notion that Congress may have been misled in its prior hearings on this merger and I believe that the Committee must have access to all of the facts so that we can provide effective oversight of this proposed merger. Inasmuch as the enclosed letter refers to information subject to an FCC protective order, it may be necessary for the Committee to subpoena this information, in addition to the unredacted letter, from the FCC.

The Judiciary Committee must be confident that all the important antitrust issues before both the U.S. Department of Justice and the FCC have been properly considered before a final merger approval is given.

The integrity of government decision-making affecting competition, markets and antitrust law enforcement is at stake in this matter. It is our duty to oversee the process on this merger to ensure that justice is done.

Sincerely,



Sam Brownback
United States Senator

Cc: Senator Arlen Specter
Senator Herb Kohl
Senator Orrin Hatch