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May 9, 2002

The Honorable Herbert H. Kohl
Chairman, Subcommittee on Antitrust
Competition, and Business and Consumer Rights
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of Nellcor, thank you for the opportunity to respond to the testimony the Senate Antitrust Subcommittee heard on April 30.

Masimo's claim that Nellcor oximetry jeopardizes infants at risk for sudden infant death syndrome is unfounded.

Dr. Goldstein also testified that use of Nellcor oximetry jeopardizes infants at risk for sudden infant death syndrome. In truth, he conducted a study of an alarm management feature (known as "SatSeconds") available in the N-395 pulse oximeter that is not suitable nor intended for use in the population of neonates he elected to study (i.e., neonates with known episodes of periodic breathing and apnea that are clinically meaningful). SatSeconds is an optional feature that a clinician must knowingly enable and choose to utilize on select patients whose alarm events are known to be "nuisance alarms" attributable to *clinically insignificant* events. This is explicitly stated in the Directions for Use provided to clinicians. It appears the purpose of Dr. Goldstein's study was not to "test the relevance" of this technology but, rather, to attempt to discredit the technology by improper application in the clinical environment.

We appreciate your willingness to allow us to present our view to the Subcommittee and trust that this information will assist you.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Doris Engibous".

Doris Engibous
President, Nellcor
Tyco Healthcare

cc: Senator Mike DeWine