

Congress of the United States
Washington, DC 20515

December 20, 2017

The President
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

As you are aware, both House and Senate Judiciary Committees are committed to ensuring that our nation's antitrust laws are applied in a manner that is transparent, fair, predictable, and stable over time for all who do business in the U.S. A natural extension of this priority is to assert that our nation's citizens and businesses receive comparable treatment in foreign jurisdictions. To that end, earlier this year, the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law held a hearing to look into the impact of foreign antitrust enforcement on American citizens and businesses abroad.

The June 29th hearing, entitled "Recent Trends in International Antitrust Enforcement," examined growing concerns about the manner in which foreign jurisdictions appear to be enforcing their competition and antitrust laws to the detriment of U.S. citizens and businesses. Such jurisdictions often have significant substantive differences in antitrust law, which can include protectionist objectives. Specifically, the Subcommittee received expert testimony regarding the lack of due process, the disregard for intellectual property rights, the imposition of extraterritorial remedies, and agency non-action against state-owned and state-sponsored enterprises in certain foreign countries. The hearing experts discussed recommendations for remedying these concerns contained in the "Report and Recommendations" of the International Competition Policy Expert Group ("ICPEG"), commissioned by the U.S. Chamber of Commerce and issued on March 14, 2017.¹

The most immediate recommendation arising from the hearing and the ICPEG Report is the establishment of a cabinet-level White House Working Group on International Competition. This Working Group would be tasked with prioritizing the coordination of international competition and trade policy within the U.S. government and developing a comprehensive and consistent strategy for addressing the misuse by foreign governments of foreign competition law. Once formed, the Working Group would conduct a review of U.S. policy tools to address the interaction of international trade, investment, and competition issues. We urge you to adopt this

¹ See generally U.S. Chamber of Commerce, *International Competition Policy Expert Group, Report and Recommendations*, (March 2017), available at <https://www.uschamber.com/report/international-competition-policy-expert-group-report-and-recommendations> (hereinafter, the "ICPEG Report").

ICPEG Report recommendation. We also urge you to consider implementing the other recommendations contained in the ICPEG Report.

The concerns expressed about foreign antitrust enforcement at this hearing should be of particular interest to the Administration. Because we know you share our serious concerns regarding foreign countries taking discriminatory action against American citizens and businesses or using their competition and antitrust laws to pursue anti-competitive goals, we urge the Administration to engage fully on this issue before it becomes a more pronounced and irreversible problem. It is critical that the United States demonstrate prompt, strong and unified leadership in this area to promote nondiscriminatory and transparent antitrust proceedings that are grounded in economic analysis in support of consumer welfare.

To that end, we request that your staff and other appropriate individuals within the White House, State, Commerce and Justice Departments, and the Federal Trade Commission review the hearing record and the ICPEG Report and take appropriate action.

We appreciate the Administration's focus on improving American competitiveness around the world. U.S. citizens and businesses do not need any special favors. They have shown time and again that their ingenuity and hard work will make them competitive and successful anywhere in the world. A rigged system that improperly discriminates against U.S. citizens and businesses, however, cannot be sustained. We urge the Administration to focus on whether and how foreign competition authorities have been engaging in ways that inappropriately harm U.S. interests.

We look forward to working with you on this matter.

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on the Judiciary



Bob Goodlatte
Chairman
House Committee on the Judiciary