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March 7, 2019

Makan Delrahim
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Assistant Attorney General Delrahim:

We write to underscore our serious concerns regarding allegations that President Trump attempted to interfere with antitrust law enforcement. According to a recent report by Jane Mayer in the *New Yorker*, President Donald Trump instructed senior White House officials to direct the Justice Department's review of AT&T's acquisition of Time Warner. As she notes in this report:

"[President Trump] called Cohn into the Oval Office along with John Kelly, who had just become the chief of staff, and said in exasperation to Kelly, 'I've been telling Cohn to get this lawsuit filed and nothing's happened! I've mentioned it fifty times. And nothing's happened. I want to make sure it's filed. I want that deal blocked!'"¹

As we have noted previously, White House interference in antitrust enforcement is unacceptable.² Antitrust enforcement must be guided by the rule of law, not wielded as a

¹ Jane Mayer, *The Making of the Fox News White House*, NEW YORKER (Mar. 11, 2019).

² See, e.g., Letter from Sen. Amy Klobuchar (D-MN), Ranking Member, Subcomm. Antitrust and Consumer Rights of the S. Comm. on the Judiciary, and Rep. David N. Cicilline (D-RI), Ranking Member, Subcomm. on Regulatory Reform, Commercial and Antitrust Law of the H. Comm. on the Judiciary, to the Honorable Makan Delrahim, Assistant Attorney General, U.S. Dep't of Justice (May 9, 2018) (online at <https://cicilline.house.gov/press-release/cicilline-klobuchar-express-deep-concerns-about-reports-att-made-payments-president%E2%80%99s>); Hearing Transcript, *Oversight of the Department of Justice: Hearing Before the H. Comm. on the Judiciary*, 115th Cong. 135 (2017) (Questions by Rep. David N. Cicilline) (online at <https://cicilline.house.gov/video/rep-cicilline-questions-attorney-general-jeff-sessions>).

political weapon to reward friends and punish enemies. Moreover, any effort to use the antitrust laws to censor, undermine, or retaliate against the press is a threat to the First Amendment and a vibrant democracy.

The reports of attempted political intervention into antitrust enforcement harkens to similar allegations during the Nixon Administration. After receiving a large political donation, President Nixon ordered the Justice Department to end its antitrust investigation into International Telephone and Telegraph, ITT.³ George H.W. Bush's Antitrust Division Director James Rill described such politically motivated enforcement orders as "plainly on the inappropriate, possibly illegal, side of the line."⁴ We must safeguard the proper enforcement of the antitrust laws.

This is not the first time that we have written to the Department regarding this matter. On February 8, 2018, and then again on May 15, 2018, we wrote to the Attorney General asking for documents and communications on this matter, including any record of contacts between the Department and any White House official.⁵

The Justice Department did not provide any of the requested documents. In a May 2018 letter, the Justice Department stated that it is "committed to ensuring" that "political considerations do not influence the handling of particular investigations or cases," and that "all investigations conducted by the Antitrust Division are initiated and conducted in a fair, professional, and impartial manner, without regard to political considerations."⁶

Even the appearance of White House interference in antitrust law enforcement matters undermines public trust in the Department of Justice's integrity and tarnishes meritorious

³ E. W. Kenworthy, *The Extraordinary I.T.T. Affair*, NY TIMES (Dec. 16, 1973) (online at <https://www.nytimes.com/1973/12/16/archives/whats-good-for-a-corporate-giant-may-not-be-good-for-everybody-else.html>).

⁴ Justin Elliot & Jesse Eisinger, *Why Trump's Meetings with CEOs Seeking Mergers Trouble Observers*, PROPUBLICA (Jan. 25, 2017) (online at <https://www.propublica.org/article/why-trumps-meetings-with-ceos-seeking-mergers-trouble-observers>).

⁵ See, e.g., Letter from Jerrold Nadler, David N Cicilline, Elijah E. Cummings, and Gerald E. Connolly to the Honorable Jeff Sessions, Attorney General, U.S. Dep't of Justice (May 15, 2018) (online at <https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/5.15.18%20Letter%20to%20AG%20Sessions%20re%20ATT%20Time%20Warner.pdf>). See also Letter from Sen. Amy Klobuchar (D-MN), Ranking Member, Subcomm. Antitrust and Consumer Rights of the S. Comm. On the Judiciary, and Rep. David N. Cicilline (D-RI), Ranking Member, Subcomm. on Regulatory Reform, Commercial and Antitrust Law of the H. Comm. on the Judiciary, to the Honorable Makan Delrahim, Assistant Attorney General, U.S. Dep't of Justice (May 9, 2018) (online at <https://cicilline.house.gov/press-release/cicilline-klobuchar-express-deep-concerns-about-reports-att-made-payments-president%E2%80%99s>).

⁶ Response Letter from Stephen E. Boyd, Assistant Attorney General to the Honorable Amy Klobuchar (D-MN), Ranking Member, Subcomm. Antitrust and Consumer Rights of the S. Comm. On the Judiciary, and Rep. David N. Cicilline (D-RI), Ranking Member, Subcomm. on Regulatory Reform, Commercial and Antitrust Law of the H. Comm. on the Judiciary (May 30, 2018).

enforcement by the Antitrust Division. The fact of actual interference would constitute a serious abuse of power.

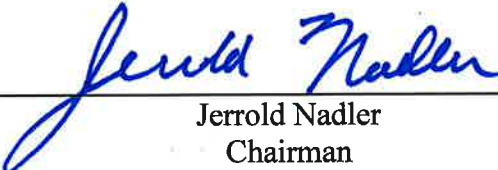
In light of these recent reports, we respectfully request that you provide complete responses and produce the relevant documents and communications listed below by no later than March 20, 2019 to the following questions:⁷

1. Documents and Communications dated or occurring from November 9, 2016 to February 26, 2019, sent from or received by the Department of Justice to or from President Donald Trump or Gary Cohn relating to the proposed AT&T/Time Warner merger.
2. Documents and Communications dated or occurring from November 9, 2016 to February 26, 2019, sent from or received by the Department of Justice to or from Trump Transition employees, or White House employees, relating to the investigation, decision to file, and the filing of the government's complaint in *United States v. AT&T Inc., et al.*, No. 1:17-cv-02511 (D. D.C. Nov. 20, 2017). This should not include copies of pleadings or filings found on a public court docket.
3. Documents and Communications dated or occurring from November 9, 2016 to February 26, 2019, sent from or received by any employee of the Department of Justice to or from any Trump Transition official, OR any employee of the Executive Office of the President relating to the proposed AT&T/Time Warner merger.
4. Documents and Communications dated or occurring from November 9, 2016 to February 26, 2019 sent from or received by President Donald Trump, or any employee of the Executive Office of the President, sent from or received by the Department of Justice relating to the proposed AT&T/Time Warner merger.
5. Documents and Communications dated or occurring from November 9, 2016 to February 26, 2019 sent from or received by the Department of Justice to and from President Donald Trump, or any employee of the Executive Office of the President, relating to divestiture or settlement in the proposed AT&T/Time Warner merger.

Thank you for your prompt attention to this request.

⁷ In keeping with precedent and practice established in the 115th Congress, we assume you will not assert deliberative process privilege for relevant Department documents and communications, and those responsive materials will be provided to the Committee. See Department of Justice's document production in response to the Joint Judiciary Committee – Oversight & Government Reform Committee's Investigation Into the FBI's Actions During the 2016 Election (115th Cong.). See also Reps. Bob Goodlatte – Trey Gowdy, Subpoena, Mar. 22, 2018.

Sincerely,



Jerrold Nadler
Chairman
House Committee on the Judiciary



David N. Cicilline
Chairman
House Subcommittee on Antitrust,
Commercial and Administrative Law

cc: The Honorable Doug Collins, Ranking Member
House Committee on the Judiciary

The Honorable James F. Sensenbrenner, Jr., Ranking Member
House Subcommittee on Antitrust, Commercial and Administrative Law