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ONE HUNDRED SIXTEENTH CONGRESS

Congress of the United States

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COMMITTEE ON THE JUDICIARY

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March 7, 2019

Pat Cipollone
White House Counsel
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. Cipollone:

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 political weapon to reward friends and punish enemies. Any effort to use the antitrust laws to

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>).

cancel, 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 report suggesting that the President has attempted to direct the administration of the antitrust laws. As we noted to then-Attorney General Sessions,⁵ Rudy Giuliani—President Trump's attorney—has suggested that the President instructed DOJ officials to block the AT&T-Time Warner merger, stating that President Trump "denied the merger."⁶ Although Mr. Giuliani went on to retract this statement, he maintained that the President "had every right and power" to interfere with the proposed transaction.⁷

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 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:

1. Documents and Communications dated or occurring from November 9, 2016 to February 26, 2019, between President Donald Trump and Gary Cohn relating to the proposed AT&T/Time Warner merger.

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 Letter from Jerrold Nadler, Ranking Member, Committee on the Judiciary, et. al., to the Honorable Jeff Sessions, Attorney General, U.S. Dep't of Justice (May 15, 2018).

⁶ S.V. Date, *Giuliani Says Cohen Never Spoke With Trump About His Big-Dollar Clients*, HUFFPOST (May 11, 2018).

⁷ Tara Palmeri, *Giuliani walks back AT&T merger comments, says Mueller talks will have to wait*, ABC NEWS (May 13, 2018).

2. 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 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 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, 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 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.

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