

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Fifteenth Congress

November 14, 2017

The Honorable Robert W. Goodlatte
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Goodlatte:

We write to request that the House Judiciary Committee hold a hearing on competition in the telecommunications and media industries, including an examination of the potential issues raised by AT&T's proposed acquisition of Time Warner. It has been some time since the Committee has held a hearing to examine this topic, the last one having been held in 2014.¹ Given that several major transactions in these industries are currently pending and that others are being contemplated, such a hearing would be timely.

Among the many possible issues that the Committee should examine is the potential for political considerations to affect the outcome of antitrust reviews and investigations in these industries, and we note that such concern does not arise in a vacuum. For instance, President Donald Trump has repeatedly criticized CNN for the nature of its coverage of him and, during his presidential campaign, he stated that "AT&T is buying Time Warner and thus CNN, a deal we will not approve in my administration."² In July, the President said in a tweet that he was "extremely pleased to see that @CNN has finally been exposed as #FakeNews and garbage journalism."³ Just days later, a senior White House official referred to CNN as a "potential point of leverage" in the pending AT&T-Time Warner transaction.⁴

¹ *The Proposed Merger of AT&T and DirecTV: Hearing Before the Subcomm. on Reg. Reform, Commercial and Antitrust L. of the H. Comm. on the Judiciary*, 113th Cong. (2014).

² Brian Stelter, *Donald Trump rips into possible AT&T-Time Warner deal*, CNN (Oct. 22, 2016), <http://money.cnn.com/2016/10/22/media/donald-trump-att-time-warner/>.

³ Donald Trump (@realDonaldTrump), TWITTER (July 1, 2017), <https://twitter.com/realDonaldTrump/status/881138485905772549>. Over the past year, the President has repeatedly referred to CNN "garbage news," "fake news," the "Fraud News Network." See, e.g., Michael M. Grynbaum, *The Network Against the Leader of the Free World*, N.Y. TIMES (July 5, 2017), <https://nyti.ms/2tOh7LB>.

⁴ Michael M. Grynbaum, *The Network Against the Leader of the Free World*, N.Y. TIMES (July 5, 2017), <https://nyti.ms/2tOh7LB>.

The foregoing comments appear to be part a troubling pattern of potential political interference by President Trump and his Administration when it comes to telecommunications and media competition and to other antitrust enforcement matters more generally. For example, during the Justice Department's review of Bayer's proposed \$66 billion merger with Monsanto, President Trump met with executives at both companies in Trump Tower "to make their case for the acquisition."⁵ Less than a week later, Sean Spicer, then-White House Press Secretary, announced the President-elect's support of the transaction.⁶

Prior to this, President Trump met with Softbank's Chief Executive Officer, Masayoshi Son, to discuss Softbank's interest in acquiring T-Mobile,⁷ a merger that would also have been reviewed by the Justice Department. In June, Commerce Secretary Wilbur Ross spoke in favor of Amazon's proposed acquisition of Whole Foods, stating that it did not raise antitrust concerns even though the merger was then under review by the Federal Trade Commission.⁸

We note that the Justice Department's career antitrust enforcement staff have expressed concern about the potential for political considerations to play a role in shaping antitrust enforcement and have stated that "[i]t is troubling that presidents of companies whose cases are before the Antitrust Division would be meeting with the president-elect. We're a law enforcement agency and we pride ourselves on enforcing the law and looking at a case objectively and deciding whether it would or would not violate the antitrust laws."⁹

Further underlining our concern is the fact that the willingness of President Trump and White House staff to publicly comment on the AT&T-Time Warner transaction stands in stark contrast to their lack of similar public remarks regarding the pending acquisition of Tribune Media by Sinclair Broadcast Group. Sinclair has reportedly forced the promotion of conservative political views on its local television stations, and its chief political analyst, Boris

⁵ Christopher Alessi, *Trump Backing for Bayer's Monsanto Deal Buys Investors*, WALL STREET JOURNAL (Feb. 20, 2017), <https://www.wsj.com/articles/trump-backing-for-bayers-monsanto-deal-buoys-investors-1487592635>; Charlie Gasparino & Brian Schwartz, *Bayer, Monsanto CEOs Meet With Trump, Argue Merger Would Create U.S. Jobs*, FOXBUSINESS (Jan. 11, 2017), <http://www.foxbusiness.com/politics/2017/01/11/bayer-monsanto-ceos-meet-with-trump-argue-merger-would-create-u-s-jobs.html>.

⁶ Paul R. La Monca, *Trump takes credit for saving Monsanto jobs, but ...*, CNNMONEY (Jan. 17, 2017), <http://money.cnn.com/2017/01/17/investing/monsanto-bayer-trump-jobs/index.html>; Donald Trump (@realDonaldTrump), TWITTER (Jan. 18, 2017), <https://twitter.com/realdonaldtrump/status/821703902940827648>.

⁷ Alexander Martin, *SoftBank Chief's Meeting With Donald Trump Fuels Hopes of Telecom Megadeal*, WALL STREET JOURNAL (Dec. 10, 2016), <https://www.wsj.com/articles/softbank-investors-cheer-ceos-meeting-with-trump-1481095552>.

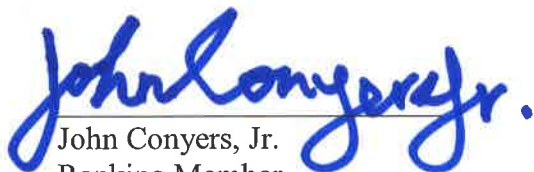
⁸ Henry Fernandez, *Amazon-Whole Foods deal is not an antitrust issue, Wilbur Ross says*, FOXBUSINESS (Jun 22, 2017), <http://www.foxbusiness.com/politics/2017/06/22/amazon-whole-foods-deal-is-not-antitrust-issue-wilbur-ross-says.html>.

⁹ Justin Elliott & Jesse Eisinger, *Why Trump's Meetings With CEOs Seeking Mergers Trouble Observers*, PROPUBLICA (Jan. 25, 2017), <https://www.propublica.org/article/why-trumps-meetings-with-ceos-seeking-mergers-trouble-observers>.

Epshteyn, was the communications director for President Trump's inauguration committee.¹⁰ In light of these facts, such disparate treatment of pending media industry transactions seems, at best, hypocritical, and, in fact, may be far more deeply troubling than that.

The Committee has a history of bipartisan interest in examining competition in the telecommunications and media industries, particularly given the role they play in shaping the flow of information to mass audiences, a role with implications not only for our economy but for our democracy. In light of this, we urge the Committee to hold an oversight hearing on the state of competition in these key industries.

Sincerely,



John Conyers, Jr.
Ranking Member
Committee on the Judiciary



David N. Cicilline
Ranking Member
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law

CC: The Honorable Tom Marino

¹⁰ Jack Moore, *Don't Be Surprised When Your Local News Starts Showing Pro-Trump Propaganda*, GQ (Sept. 18, 2017), <https://www.gq.com/story/sinclair-influence-local-news-segments>.