

Congress of the United States
Washington, DC 20515

July 28, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Maureen K. Ohlhausen
Acting Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Attorney General Sessions and Acting Chairman Ohlhausen:

We write you to express our support for including competition chapters, consistent with U.S. law, in all United States trade agreements, and to urge you to work with the U.S. Trade Representative on creating a model competition chapter. We believe that the inclusion of such chapters in our trade agreements is increasingly important given the proliferation of antitrust agencies around the world. It is critical that the United States demonstrate strong leadership in this area and set a global standard through its trade negotiations to promote nondiscriminatory and transparent antitrust proceedings that are grounded in economic analysis in support of consumer welfare and conducted in a manner that provides procedural fairness and due process.

We understand that foreign jurisdictions frequently operate in an opaque manner to the detriment of U.S. companies doing business abroad. Moreover, these jurisdictions often have significant substantive differences in antitrust law, which can include protectionist objectives. These issues are aggravated by procedural deficiencies in certain foreign antitrust proceedings, including in foreign antitrust investigation and decision-making processes. While it may be difficult to bridge substantive differences in antitrust law in the short-term, American companies should be guaranteed the same high standard of procedural rights before a foreign antitrust agency that foreign firms are afforded before the Department of Justice and the Federal Trade Commission in the United States. Securing a foundational understanding with regard to non-discrimination, transparency, and due process among antitrust agencies as part of a trade negotiation will help to ensure that antitrust enforcement remains apolitical and based on sound antitrust principles.

While competition chapters have been included in previous trade agreements, we believe that these commitments can be strengthened even further. The upcoming North American Free Trade Agreement (NAFTA) negotiations present an opportunity to produce even more robust competition commitments given the relatively close alignment that our country enjoys with Canada and Mexico on antitrust policy and enforcement. A strong competition chapter in

NAFTA would establish a precedent-setting high bar for future bilateral trade negotiations, and would help send a clear message to jurisdictions around the world which lack procedural and due process safeguards.

We encourage the Antitrust Division and the Federal Trade Commission to work with the U.S. Trade Representative on the development of a high standard model competition chapter for NAFTA and other future trade agreements. We also encourage the Antitrust Division and the Federal Trade Commission to support the U.S. Trade Representative's negotiations to ensure that such commitments are secured in any final agreement.

Thank you for your attention to this important matter. We look forward to receiving your response.

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on the Judiciary



Bob Goodlatte
Chairman
House Committee on the Judiciary

cc: U.S. Trade Representative Robert E. Lighthizer