

Congress of the United States

Washington, DC 20515

August 20, 2018

The Honorable Makan Delrahim
Assistant Attorney General
Antitrust Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Delrahim,

We seek your views on the No Oil Producing and Exporting Cartels Act (NOPEC).

NOPEC would explicitly authorize the Justice Department to sue oil-producing cartel members for antitrust violations. It would clarify that neither sovereign immunity nor the “Act of State” doctrine should stop a court from hearing a case. Importantly, NOPEC would authorize DOJ alone to sue, ensuring that courts only hear cases that the Executive Branch affirmatively elects to bring after considering the foreign policy and national security implications. On June 13, 2018, following a hearing, the House Judiciary Committee passed NOPEC (H.R. 5904) by voice-vote. The Senate bill (S. 3214) was introduced on July 16, 2018. The bills were led by Representative Chabot and Senator Grassley, respectively, with strong bipartisan support.

NOPEC is a necessary tool to ensure consumers in the United States are no longer beholden to artificially inflated gas prices. The average U.S. household spends over \$2,000 a year on gasoline. That might be one thing if fuel prices were set by the free market. Unfortunately, however, prices are heavily influenced by the coordinated efforts of the Organization of Petroleum Exporting Countries (OPEC), which controls 82% of the world’s proven oil reserves. For example, in April 2018, OPEC and non-OPEC producers agreed to continue a deal they struck in 2016 limiting production. In 2016 oil was at \$43 per barrel. It is now around \$70.

We believe this legislation is consistent with the administration’s goals of ensuring a fair and competitive global marketplace. In his 2011 book, *Time to Get Tough*, President Trump, then a private citizen, called for passage of NOPEC to bust OPEC’s cartel: “The way to fix this is to make sure that Congress passes and the president signs the ‘No Oil Producing and Exporting Cartels Act.’”¹ More recently, President Trump expressed frustration with the OPEC cartel in a series of tweets, noting that “Oil prices are artificially Very High!” and that the “[t]he OPEC Monopoly” is

¹ Donald J. Trump, *TIME TO GET TOUGH* (2011).

“driving prices higher.”² You too, have written that “there is simply no reason to treat cartel members differently based on their connection to a national government.”³

This legislation has strong bipartisan and bicameral support. Your additional support would help us to pass NOPEC and ensure a fair and competitive marketplace.

We look forward to hearing from you.

Sincerely,



Charles E. Grassley
Chairman
Senate Judiciary Committee



Bob Goodlatte
Chairman
House Judiciary Committee

² Donald J. Trump (@realDonaldTrump), Twitter (Apr. 20, 2018, 5:57 AM), <https://twitter.com/realdonaldtrump/status/987284041304100864?lang=en>; Donald J. Trump (@realDonaldTrump), Twitter (July. 4, 2018, 3:46 PM), <https://twitter.com/realdonaldtrump/status/1014611307427966976?lang=en>.

³ Makan Delrahim, “*Let free-market principles, not OPEC, determine the price of oil,*” THE HILL (Sept. 16, 2008), available at <http://thehill.com/opinion/op-ed/7872-let-free-market-principles-not-opec-determine-the-price-of-oil>.