

Congress of the United States
House of Representatives
Washington, DC 20515-1308

September 1, 2016

The Honorable Loretta E. Lynch
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Lynch:

I am writing to request the U.S. Department of Justice (DOJ), Antitrust Division review Mylan Pharmaceuticals' (Mylan) EpiPen Auto-Injector EpiPen4Schools Program for potential violations of the Sherman Antitrust Act and related laws pertaining to illegal anticompetitive practices.

DOJ scrutiny of Mylan's potential statutory violations is warranted in light of the company's dominant position in the epinephrine injection pharmaceutical product marketplace and enactment of numerous state laws requiring local education agencies to procure and stock epinephrine auto-injectors in schools.

I am particularly concerned that Mylan's EpiPen4Schools Program may unreasonably suppress competition using aggressive, anticompetitive contractual stipulations that prohibit local educational agencies from purchasing a competitor's product for a specified duration of time as a condition for participating in Mylan's program. Combined with Mylan's market dominant status, such exclusionary contract requirements threaten to unreasonably restrain competition and may promote an unlawful monopoly in the market for these types of products.

Although Mylan denies engaging in such anticompetitive business practices, these assertions appear to be inconsistent with the requirements stipulated in Mylan's own certification form for the EpiPen4Schools program.¹ Accordingly, in light of conflicting information and potential violations of Federal Antitrust law that may inflict harm on local education agencies and consumers, DOJ's Antitrust Division, in coordination with appropriate entities, should immediately initiate a review Mylan's EpiPen4Schools program and act swiftly to address any

¹ Mylan Specialty L.P. "Certification Form: EpiPen (epinephrine injection) Auto-Injector *EpiPen4Schools* Program" (EPI-2015-0461) June 2015 Accessible online at:
<https://www.documentcloud.org/documents/3034393-2015-EpiPen4Schools-DISC-CERTIFICATION-1.html#document/p2>

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statutory or regulatory violations committed by Mylan. Thank you in advance for consideration of my request.

Sincerely,



Tammy Duckworth
Member of Congress

CC:

The Honorable John B. King, Jr.
Secretary of Education
U.S. Department of Education

The Honorable Edith Ramirez
Chairwoman and Commissioner
U.S. Federal Trade Commission