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December 11, 2018

The Honorable Makan Delrahim
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Assistant Attorney General Delrahim,

I write on behalf of my client, J. Gregory Sidak, Chairman of Criterion Economics LLC. As a matter of principle and without acceptance of any fee, and in friendship and admiration for his outstanding professional reputation, I represent Mr. Sidak in his individual capacity.

Mr. Sidak testified as an expert economic witness for Qualcomm in a patent-infringement dispute with Apple before the International Trade Commission (ITC)—Investigation No. 337-TA-1065, *Certain Mobile Electronic Devices and Radio Frequency and Processing Components Thereof*. I explain in this letter why it is my opinion, consistent with the conclusions of the enclosed memorandum to the Antitrust Division that Mr. Sidak has written in consultation with me, that the administrative law judge (ALJ) in the 1065 Investigation reached findings that conflict with controlling American antitrust jurisprudence and consequently drive a wedge between the Antitrust Division and the ITC on how properly to use economic principles to diagnose monopoly power. Mr. Sidak correctly identifies what is at stake: will the ITC or the Antitrust Division set policy on monopoly and innovation?

From my experience as Solicitor General and as a Circuit Judge on the U.S. Court of Appeals for the District of Columbia Circuit, I address in this letter, from the perspective of an appellate judge reviewing an agency's action, what appear to me to be three reversible errors in the ALJ's findings in the 1065 Investigation. Those errors concern (1) the incorrect inference of monopoly power from market share alone, (2) the incorrect view that Schumpeterian competition across successive generations of monopoly cannot deliver innovation and lower quality-adjusted prices, and (3) the incorrect finding that Mr. Sidak is biased and that he and his expert economic testimony lack credibility and should receive no evidentiary weight. Those reversible errors unjustifiably impugn Mr. Sidak's professional reputation, which I describe in the Appendix to this letter.

INFERRING MONOPOLY POWER FROM MARKET SHARE ALONE

As Mr. Sidak's memorandum explains, the ALJ in the 1065 Investigation found that the requested exclusion order would give Qualcomm a monopoly in the supply of baseband processor modems to smartphone manufacturers with respect to their sale of so-called "premium" smartphones in the United States (although this supposed "market" curiously *excludes* any Samsung smartphones sold in the United States that contain Samsung's own baseband processor modems). In other words, the ALJ (implicitly) defined the relevant product market to be the supply of only a *subset* of baseband processor modems used in the manufacture of only a *subset* of the many smartphones sold. The ALJ then (explicitly) defined the relevant geographic market for that subset-of-a-subset of baseband processor modems to consist of only the United States, despite the undisputed fact that baseband processor modems are generally manufactured outside the United States and installed in smartphones that are also manufactured outside the United States. Those smartphones are then shipped throughout the world.

It is long-established antitrust law that one cannot reliably infer monopoly power from a market share in isolation. In my opinion, no appellate court would conclude that American antitrust law supports the ALJ's ruling that Mr. Sidak lacked credibility when he truthfully and correctly answered the hypothetical question put to him by saying that it is unreliable for one to purport to infer monopoly power solely from a firm's market share, without considering demand and supply conditions. It is also my opinion that an appellate court would conclude that the ALJ's ruling on Mr. Sidak's credibility was arbitrary and capricious, unsupported by substantial evidence, and contrary to established antitrust jurisprudence.

I agree with Mr. Sidak's impression that the ALJ confirmed that he lacked enough understanding of antitrust law to recognize (during Mr. Sidak's re-direct examination) that Mr. Sidak had answered the ALJ's earlier hypothetical question in a completely truthful and correct manner. It would trouble an appellate court that the ALJ refused to allow Mr. Sidak to complete his truthful, correct, and highly relevant answer concerning supply substitution and geographic market definition; Mr. Sidak's testimony on these issues would indeed have directly informed proper analysis of the requested exclusion order's effect on U.S. consumers and its effect on competitive conditions in the United States. The ALJ's reasoning that this portion of Mr. Sidak's testimony was irrelevant to the correct interpretation of section 337 clashes with the reasoning on supply substitution and geographic market definition found in American antitrust jurisprudence.

In my opinion, an appellate court would not give *Chevron* deference to the ALJ's novel interpretation of section 337. It is also my opinion that an appellate court would find

that it was an abuse of discretion to refuse to permit Mr. Sidak to complete his answer on supply substitution and the worldwide scope of the relevant geographic market.

SCHUMPETERIAN COMPETITION AND INNOVATION

During Mr. Sidak's cross examination, a staff lawyer from the ITC's Office of Unfair Import Investigations asked: "Standard economic theory provides that monopolies reduce innovation and result in higher prices; correct?" Mr. Sidak answered: "I think it's ambiguous whether monopolies increase or decrease innovation. There is the theory associated with Joseph Schumpeter about creative destruction, that it's the lure of achieving a monopoly for a limited period of time that drives innovation and that competition basically takes the form of successive iterations of monopoly, where one firm displaces another, which displace[d] another." The ALJ, however, embraced the static-competition view that "it is a staple doctrine of economic theory that monopolies reduce innovation and result in higher prices," and that "the contradictory testimony" by Mr. Sidak, "that monopolies can actually increase innovation, should not be considered credible.'" The ALJ wrote that "this conclusion . . . is such an accepted truism that it would not be error to take notice of the validity of this theory."

I agree with Mr. Sidak that the ALJ's conclusion conflicts with the D.C. Circuit's decision in *United States v. Microsoft*, which acknowledged the importance of Schumpeterian competition and quoted Mr. Sidak's own scholarship when it explained: "Rapid technological change leads to markets in which 'firms compete through innovation for temporary market dominance, from which they may be displaced by the next wave of product advancements.'" In your own *Telegraph Road* speech delivered on December 7, 2018, your reiterated the salience of the very same passages from *Microsoft*. I also agree with Mr. Sidak that the ALJ's dismissive findings about the consumer benefits from Schumpeterian competition conflict with the Supreme Court's reasoning in *Trinko* that "[t]he opportunity to charge monopoly prices—at least for a short period—is what attracts 'business acumen' in the first place; it induces risk taking that produces innovation and economic growth." (I note that, at the time of the *Microsoft* case, I collaborated with Judge Robert Bork in representation of parties adverse to Microsoft that argued that Microsoft, possessing a monopoly, had engaged in conduct falling short of the "business acumen" that antitrust applauds. Of course, Microsoft lost before the D.C. Circuit.)

It is therefore my opinion that an appellate court would find the ALJ's rulings on monopoly and innovation to be arbitrary and capricious, unsupported by substantial evidence, and contrary to established antitrust law.

Presuming Bias

The ALJ found that Mr. Sidak's professional fees to Qualcomm made him a biased expert economic witness:

> [T]he Record will show the amount of money paid to Mr. Sidak, before the current investigation, was approximately $1 million over several years and that the company he owns has invoiced between $3 million and $4 million for just this investigation alone. . . . In my almost 39 years of practicing law, I have never seen or heard of anything even approaching this level of financial commitment by a witness to a party. . . . From his financial relationship with Qualcomm bias may be presumed, and I find it would be an abuse of my discretion to give any material credibility to this witness or his findings.

The ALJ never considered that Mr. Sidak and his staff at Criterion Economics devoted more than 9,000 hours to analyzing the many economic nuances in the 1065 Investigation. The ALJ never compared Criterion's fees with those charged by economic consulting firms employing or supporting other expert economic witnesses of comparable reputation on matters of similar size, scope, complexity, urgency, and consequence (including the firms supporting Apple's expert witnesses in the 1065 Investigation). In October 2017, when Qualcomm disclosed only Mr. Sidak and one other economist as possible witnesses on public-interest issues, Apple disclosed as many as twelve economic experts—including professors from Yale, Chicago, and Berkeley, one of whom is a Nobel laureate.

The ALJ never considered that, when Mr. Sidak was retained, Qualcomm, Apple, Intel, the Federal Trade Commission, and other third parties were involved in a complex set of legal disputes concerning Qualcomm's licensing of its patents, or its sale of baseband processor modems, or both. It is unremarkable that Qualcomm committed substantial resources to having Mr. Sidak develop intellectually rigorous expert economic testimony on issues that might become relevant to Qualcomm's litigation in other fora. Qualcomm disclosed in federal district court in October 2018 that it believes that Apple owes Qualcomm $7 billion in past-due royalty payments. The scale of the legal effort undertaken by Qualcomm to enforce its patent rights and to defend itself from the antitrust and other claims, counterclaims, and affirmative defenses asserted against it by Apple, the Federal Trade Commission, and other parties caused Qualcomm's litigation costs for fiscal year 2018 to exceed half a billion dollars. The Criterion professional fees upon which the ALJ remarked were less than 1 percent of that amount.

In my opinion, an appellate court would likely find (1) that the ALJ in the 1065 Investigation based his conclusions of bias on an inaccurate assumption of the actual depth and breadth of Mr. Sidak's engagement on behalf of Qualcomm, and (2) that the

finding that Mr. Sidak was biased was not only unsupported by substantial evidence, but also arbitrary and capricious.

One additional point deserves comment. The ALJ's findings on bias and credibility are part of his *recommended* determination on remedy. He found that "it would be an abuse of [his] discretion to give any material credibility to this witness or his findings." The implication is that the ITC would abuse *its* discretion if it disagreed with the ALJ. However, an ALJ cannot tie an agency's hands. It is the prerogative of the appellate court—not the ALJ—to tell the agency whether it has abused its discretion by making particular adjudicatory findings.

Implications

I agree with Mr. Sidak that the misapplication of antitrust concepts that is apparent in the ALJ's initial determination in the 1065 Investigation usurps the Antitrust Division's role in the setting of national policy on questions of monopoly and innovation. In addition, that an ALJ could so misapply familiar antitrust concepts diminishes public confidence that the ITC has the competence to resolve the weighty economic issues necessarily presented in complex disputes over valuable intellectual property rights. Patent holders engaged in global disputes over licensing or infringement can choose to litigate their multijurisdictional disputes before highly sophisticated tribunals in other countries, particularly the specialized patent courts in London and Germany. The deficit of economic rigor evident in the ALJ's initial determination in the 1065 Investigation diminishes the ITC's reputation as an expert adjudicator of these global patent disputes and encourages patent holders to litigate overseas.

Thank you for your attention to this matter. Mr. Sidak and I are available to discuss this matter at your convenience and answer any questions that you might have.

Sincerely,

/s/ Kenneth W. Starr

Kenneth W. Starr

Enclosure: J. Gregory Sidak, *Memorandum: Will the International Trade Commission or the Antitrust Division Set Policy on Monopoly and Innovation?*, 3 Criterion Journal on Innovation 701 (2018), https:///www.criterioninnovation.com/articles/sidak-international-trade-commission-on-monopoly-and-innovation.pdf

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APPENDIX:
MR. SIDAK'S PROFESSIONAL REPUTATION

At the hearing in the 1065 Investigation the ALJ qualified Mr. Sidak as an expert in economics without objection.[1] Yet, the ALJ seemed not to recognize the depth of Mr. Sidak's professional experience, the breadth of his scholarly contributions to the economic analysis of complex legal disputes on competition and intellectual property questions, or the credibility given his scholarship by respected jurists and scholars over many years.

* * *

Mr. Sidak began studying antitrust law and economics more than four decades ago. While 25 and still a student at Stanford, he co-authored an econometric analysis of antitrust enforcement in the *Journal of Political Economy*, the most prestigious economics journal published by the University of Chicago. Mr. Sidak's scholarship caught the attention of Professor Richard Posner of the University of Chicago Law School, and once the Senate confirmed Professor Posner's nomination to the Seventh Circuit in 1981, Mr. Sidak served as Judge Posner's first law clerk.

As a 28-year-old associate in a law firm, Mr. Sidak published an article in the *Columbia Law Review* on monopoly and innovation, which the Supreme Court cited the following year.[2] At 30, he joined the senior staff of the Council of Economic Advisers (CEA) in the Executive Office of the President and was entrusted to write President Reagan's introduction to the *Economic Report of the President* and to represent the CEA in Executive Branch working groups on antitrust, intellectual property, corporate governance, and regulatory matters—including matters concerning the breakup of the Bell System. At 32, Mr. Sidak became Deputy General Counsel of the Federal Communications Commission, where one of his duties was to review every final order in an FCC matter adjudicated before an ALJ. Thereafter, while practicing antitrust and regulatory law with Covington & Burling, Mr. Sidak published a series of influential articles on the separation of powers that were subsequently cited by the U.S. Courts of Appeals and the Office of Legal Counsel within the Department of Justice.

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[1] Open Session Hearing Transcript at 433:6–11, Certain Mobile Electronic Devices and Radio Frequency and Processing Components Thereof, Inv. No. 337-TA-1065 (USITC June 19, 2018) (Testimony of Mr. J. Gregory Sidak).

[2] Jefferson Parish Hosp. Dist. No. 2 v. Hyde, 466 U.S. 2, 15 n.23 (1984) (citing J. Gregory Sidak, *Debunking Predatory Innovation*, 83 COLUM. L. REV. 1121 (1983)).

At the age of 36, Mr. Sidak became a resident scholar at the American Enterprise Institute for Public Policy Research (AEI). He founded and directed AEI's Studies in Telecommunications Deregulation and later occupied its F.K. Weyerhaeuser Chair in Law and Economics. From 1993 to 1999, while at AEI, Mr. Sidak was also a Senior Lecturer at the Yale School of Management, where he taught courses on regulation and competitive strategy in the telecommunications sector with Dean Paul W. MacAvoy. During these years, Mr. Sidak published dozens of widely cited scholarly articles on antitrust, regulation, and constitutional law, as well as books on these topics published by the Cambridge University Press, the MIT Press, and the University of Chicago Press, among others.

Mr. Sidak's scholarly research on competition and regulation in network industries during the 1990s was prolific, original, and influential. In 1993, he co-authored with Professor William Baumol of Princeton and NYU *Toward Competition in Local Telephony*,[3] which immediately became a standard reference for scholars, regulators, and jurists throughout the world. In 1997, Mr. Sidak co-authored with Professor Daniel Spulber of the Kellogg School of Management at Northwestern University a 600-page treatise, *Deregulatory Takings and the Regulatory Contract: The Competitive Transformation of Network Industries in the United States*, that analyzed competition among telecommunications networks from the perspectives of price theory, contract law, and the constitutional jurisprudence on just compensation for the government taking of private property.[4] One professor likened it to Judge Robert Bork's seminal work, *The Antitrust Paradox*, and observed: "The last time a book on regulatory policy caused this great a stir, 'Bork' was a proper noun rather than an impertinent verb. *Deregulatory Takings and the Regulatory Contract* . . . is almost surely the most controversial book of its kind in two decades."[5] Other distinguished scholars and jurists commenting on the book (or on the principal article that was its genesis) included William Baumol, Jean-Jacques Laffont and future Nobel laureate Jean Tirole of the University of Toulouse, Thomas Merrill of Columbia Law School, future Nobel laureate Oliver Williamson of Berkeley, and Judge Stephen Williams of the U.S. Court of Appeals for the D.C. Circuit.[6] Mr. Sidak extended this line of research with Professor Jerry

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[3] WILLIAM J. BAUMOL & J. GREGORY SIDAK, TOWARD COMPETITION IN LOCAL TELEPHONY (MIT Press & AEI Press 1994).

[4] J. GREGORY SIDAK & DANIEL F. SPULBER, DEREGULATORY TAKINGS AND THE REGULATORY CONTRACT: THE COMPETITIVE TRANSFORMATION OF NETWORK INDUSTRIES IN THE UNITED STATES (Cambridge Univ. Press 1997).

[5] Jim Chen, *The Second Coming of* Smyth v. Ames, 77 TEX. L. REV. 1535, 1535 n.1 (1999) (citing ROBERT H. BORK, THE ANTITRUST PARADOX: A POLICY AT WAR WITH ITSELF (Basic Books 1978)).

[6] *See* JEAN-JACQUES LAFFONT & JEAN TIROLE, COMPETITION IN TELECOMMUNICATIONS (MIT Press 2000); William J. Baumol & Thomas W. Merrill, *Deregulatory Takings, Breach of the Regulatory Contract, and*

Hausman of MIT in their widely cited 1999 article in the *Yale Law Journal*, "A Consumer-Welfare Approach to the Mandatory Unbundling of Telecommunications Networks."[7] By the late 1990s and early 2000s, in its landmark decisions on competition and regulation under the Telecommunications Act of 1996, the Supreme Court cited these and other scholarly writings by Mr. Sidak.[8]

Also, since 1993, Mr. Sidak has served as a consulting or testifying economic expert in matters in the Americas, Europe, Asia, and the Pacific.[9] In 1999, he founded Criterion Economics. In addition, Mr. Sidak served from 2002 to 2006 on the U.S. advisory board of NTT DoCoMo, Japan's largest mobile network operator, and advised its chairman on regulatory and antitrust trends relevant to mobile communications.

As the vanguard of competition policy began to shift from telecommunications networks to software, Microsoft asked Mr. Sidak to undertake projects analyzing the government's two monopolization cases against the company. In 2001, the U.S. Court of Appeals for the D.C. Circuit quoted Mr. Sidak's published work on antitrust principles for technologically dynamic industries (co-authored with Professor Howard

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the Telecommunications Act of 1996, 72 N.Y.U. L. REV. 1037 (1997); Oliver E. Williamson, *Deregulatory Takings and Breach of the Regulatory Contract: Some Precautions*, 71 N.Y.U. L. REV. 1007 (1996); Stephen F. Williams, *Deregulatory Takings and Breach of the Regulatory Contract: A Comment*, 71 N.Y.U. L. REV. 1000 (1996).

[7] Jerry A. Hausman & J. Gregory Sidak, *A Consumer-Welfare Approach to the Mandatory Unbundling of Telecommunications Networks*, 109 YALE L.J. 417 (1999).

[8] Sometimes the Justices disagreed with Mr. Sidak, but they weighed the arguments in his scholarly writings seriously. Perhaps because of his interest in antitrust and regulation while a professor at Harvard, Justice Breyer particularly appreciated Mr. Sidak's work. *See, e.g.*, AT&T Corp. v. Iowa Utils. Bd., 525 U.S. 366, 426 (1999) (Breyer, J., concurring in part and dissenting in part) (citing BAUMOL & SIDAK, *supra* note 3, at 95–97); *id.* (citing J. Gregory Sidak & Daniel F. Spulber, *The Tragedy of the Telecommons: Government Pricing of Unbundled Network Elements Under the Telecommunications Act of 1996*, 97 COLUM. L. REV. 1081, 1111–13 & nn.75–85 (1997)); *id.* (citing Sidak & Spulber, *The Tragedy of the Telecommons*, *supra*, at 1095–98); *id.* at 426–27 (citing Sidak & Spulber, *The Tragedy of the Telecommons*, *supra*, at 1109); Verizon Commc'ns, Inc. v. FCC, 535 U.S. 467, 476 (2002) (citing BAUMOL & SIDAK, *supra* note 3, at 7–10); *id.* at 499 n.17 (citing Sidak & Spulber, *The Tragedy of the Telecommons*, *supra*, at 1093); *id.* at 514 (citing SIDAK & SPULBER, *supra* note 4, at 284–85); *id.* at 514 n.32 (citing Sidak & Spulber, *The Tragedy of the Telecommons*, *supra*, at 1097–98); *id.* at 549 (citing SIDAK & SPULBER, *supra* note 4); *id.* at 551 (citing Thomas M. Jorde, J. Gregory Sidak & David J. Teece, *Innovation, Investment, and Unbundling*, 17 YALE J. ON REG. 1, 8 (2000)); *id.* at 551 (citing J. Gregory Sidak & Daniel F. Spulber, *Deregulation and Managed Competition in Network Industries*, 15 YALE J. ON REG. 117, 124–25 (1998)).

[9] Mr. Sidak's clients have included, among others, América Móvil, ATCO Group, AT&T (including its formerly separate companies: AirTouch, Ameritech, BellSouth, Pacific Bell, and SBC), Bell Canada, British Telecom, Deutsche Telekom, Disney, Edison Electric Institute, Ericsson, Exelon, Google, Microsoft, Nippon Telegraph & Telephone, NTT DoCoMo, Panasonic, PECO Energy, Qualcomm, the Tata Group, Teléfonos de México, Telstra, The United Mexican States, United Parcel Service (UPS), Verizon (including its formerly separate companies: Bell Atlantic, GTE, and NYNEX), and Vodafone. Mr. Sidak has also served as a consultant to the Antitrust Division of the U.S. Department of Justice and the Competition Bureau in Canada.

Shelanski) in its unanimous *en banc per curiam* decision in *United States v. Microsoft*.[10] In the following years, Mr. Sidak believed that an unmet demand existed for a peer-reviewed journal focusing on antitrust policy in technologically dynamic industries; so, in 2005, he co-founded the *Journal of Competition Law & Economics* for the Oxford University Press. In the late 2000s, Mr. Sidak's research gravitated to technology-driven controversies—global in scope—that concerned patent licensing, standards setting, and related antitrust issues. He became a Visiting Professor of Law at Georgetown University Law Center in 2005 and, in 2009, was named the inaugural holder of the Ronald Coase Professorship in Law and Economics at Tilburg University in The Netherlands, Europe's leading center of research on law and economics.

Since 2007, Mr. Sidak has published more than 30 scholarly articles on standardization, standard-essential patents, FRAND (or RAND) royalties, and remedies for patent infringement. Some of those writings have been cited by U.S. or foreign regulatory bodies, courts, or policy makers, including the current Assistant Attorney General in charge of the Antitrust Division.[11] Mr. Sidak has served as an expert economic witness in disputes over patent infringement and FRAND (or RAND) licenses in American and foreign courts, in the International Trade Commission, and before international commercial arbitration panels. He has also been retained to value patents or portfolios of patents for purposes of facilitating licensing negotiations.

Pursuant to Federal Rule of Evidence 706, Mr. Sidak twice filed reports, and once was deposed, as Judge Posner's court-appointed neutral economic expert on damages in patent cases litigated in the U.S. District Court for the Northern District of Illinois when Judge Posner sat as a district judge by designation. Judge Posner has called Mr. Sidak "eminently qualified" to serve as a court-appointed neutral economic expert and has said that he was "confident" that Mr. Sidak would "give a completely unbiased evaluation of the damages claims" as a neutral expert in patent-infringement litigation.[12]

Mr. Sidak has also written influential briefs *amicus curiae* in consequential antitrust cases concerning market definition or allegations of monopolistic conduct. For example, in

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[10] United States v. Microsoft Corp., 253 F.3d 34, 49–50 (D.C. Cir. 2001) (per curiam) (Howard A. Shelanski & J. Gregory Sidak, *Antitrust Divestiture in Network Industries*, 68 U. CHI. L. REV. 1, 8 (2001)).

[11] *See, e.g.*, Makan Delrahim, Assistant Attorney Gen., U.S. Dep't of Justice, Remarks as Prepared for Delivery at the USC Gould School of Law's Center for Transnational Law and Business Conference—Application of Competition Policy to Technology and IP Licensing: Take It to the Limit: Respecting Innovation Incentives in the Application of Antitrust Law 4 n.6, 10 n.27 (Nov. 10, 2017) (citing J. Gregory Sidak, *The Antitrust Division's Devaluation of Standard-Essential Patents*, 104 GEO. L.J. ONLINE 48, 61 (2015); J. Gregory Sidak, *Patent Holdup and Oligopsonistic Collusion in Standard-Setting Organizations*, 5 J. COMPETITION L. & ECON. 123, 126 (2009)).

[12] Order of March 9, 2012, Apple Inc. v. Motorola Inc., 1:11-cv-08540 (N.D. Ill. Mar. 9, 2012) (Posner, J.); *see also* J. Gregory Sidak, *Court-Appointed Neutral Economic Experts*, 9 J. COMPETITION L. & ECON. 359, 369–70 (2013).

2008, with Judge Robert Bork, Mr. Sidak successfully urged the Supreme Court of the United States to grant *certiorari* in *Pacific Bell Telephone v. linkLine* and subsequently abolish the price squeeze as a theory of antitrust liability.

Mr. Sidak has testified before committees of Congress on multiple occasions. His six books and approximately 150 articles or book chapters have been cited by the Supreme Court of the United States, the Supreme Court of Canada, the European Commission, the U.S. Court of Appeals for the D.C. Circuit, other federal appellate and district courts, state supreme courts, federal and state regulatory commissions, and the Office of Legal Counsel of the U.S. Department of Justice. American jurists across the political spectrum—Stephen Breyer, Frank Easterbrook, Douglas Ginsburg, Neil Gorsuch, Raymond Randolph, Stephen Reinhardt, Laurence Silberman, David Souter, and Stephen Williams—have cited Mr. Sidak's writings.

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As a former federal judge, I find it impossible to fathom how the ALJ in the 1065 Investigation could have found Mr. Sidak biased and lacking in credibility when for decades so many eminent jurists, policy makers, scholars, and clients have sought his counsel and have consistently recognized his objectivity, insight, intellectual rigor, and integrity. Mr. Sidak's professional career has personified a character for truthfulness. Not only is that a virtue for any person to possess, it is precisely how the law defines credibility.