



The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20508

October 25, 2017

Dear Ambassador Lighthizer:

The Alliance for Fair Trade with India (AFTI), founded in 2013, represents a range of U.S. industries that support a robust, constructive U.S.-India dialogue on commercial issues and expanding opportunities, but remain adversely impacted by a range of Indian policies and discriminatory trade barriers. AFTI firmly supports all U.S. government and industry channels, including this week's Trade Policy Forum and Commercial Dialogue and other dialogues and trade tools, as means to improve the commercial relationship, hold frank dialogue about trade and commercial barriers, and create concrete, measurable progress in resolving those issues.

U.S.-India dialogue on a range of issues has improved since Prime Minister Narendra Modi was elected in 2014, and U.S. businesses have seen small positive steps in the right direction, including foreign investment openings in a few sectors, fossil fuel and energy efficiency policy initiatives, efforts to address infrastructure project permitting and licensing challenges, and passage of legislation related to bankruptcy and tax reforms. However, due to a lack of leverage vis-à-vis India, concrete and lasting policy changes to address a series of longstanding issues remain elusive, and U.S. companies in a variety of industries have seen the emergence of new and highly troubling issues that are directly impacting high-value sectors.

AFTI is concerned that India is failing to provide adequate and effective protection of intellectual property rights and fair access to its markets. Further, India maintains and continues to propose significant IP and market access barriers. AFTI has detailed many of these concerns in past submissions to the U.S. government, including AFTI's submissions for the Special 301 review of intellectual property rights and the U.S. trade deficit review. Specific IP and market access issues of significant concern include:

- Price controls: India has taken a series of troubling steps designed to impose price controls on an expanding group of products. National price caps announced for coronary stents (February 2017) and orthopedic implants (August 2017) have raised serious concern for the devices industry, which exports significant product from the U.S. These actions imposed drastic price cuts on innovative U.S. products but also barred manufacturers from leaving the market when the price cuts forced them to sell products at a loss. U.S. companies in other sectors, including agricultural biotechnology and pharmaceutical products, continue to face the burden of existing price caps as well as new policies that aim to limit market access and undercut the value of their intellectual property.
- Forced localization: India has implemented a series of deeply concerning forced localization measures that limit market access for U.S. industries, particularly high-value innovative industries. These actions include specific policies promoting local

manufacturing or certification in products such as solar energy, information technology, and toys as well as “pressure [on innovative industries] to localize the manufacture of their products, including due to the Drug Price Control Order and to high customs duties directed to IP-intensive products, such as medical devices, pharmaceuticals, information and communications technology products, solar energy equipment, and capital goods.”

- Technical barriers to trade: Product and labeling standards in a range of industries have raised concerns as they effectively hamper market access for U.S. products in these spaces. Food Safety and Standards Authority of India (FSSAI) policies, such as alcoholic beverage packaging and labeling requirements, for example, and June 2016 standards for alcoholic drinks and additives are perfect examples, compounding existing market access issues caused by high tariffs.
- Intellectual property barriers: AFTI has elaborated extensively on intellectual property challenges in its February 2017 submission to the Special 301 process, including issues and engagement on issues touching on patents, copyrights, and trade secrets. These limitations on effective protection have a direct and meaningful impact on market access in innovative and creative industries, ranging from pharmaceuticals to movies.

Based on these considerations, AFTI urges USTR to consider and make use of all available channels consistent with international trading obligations, including bilateral dialogue and trade tools, to make concrete, tangible progress on both longstanding issues that limit market access in India as well as new issues that pose a significant threat to industries already invested in India. We encourage the U.S. government to work with the private sector and the Government of India through this process to ensure strategic approaches that have the best chances of success.

Sincerely,



Brian Pomper

Executive Director

Alliance for Fair Trade with India