



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

Washington, D.C. 20570

November 10, 2014

The Honorable Todd Rokita
United States House of Representatives
236 Cannon House Office Building
Washington, DC 20515

Dear Representative Rokita:

I write in response to your letter dated October 27, 2014, wherein you request that I make public supporting reasoning for the Office of the General Counsel's decision to authorize complaints against McDonald's USA, LLC and McDonald's franchisees as joint-employers.

The National Labor Relations Board's (Board) recent decision in *CNN News Network and Team Video Services, LLC*, 361 NLRB No. 47 (2014), details the current joint-employer standard. That is the current joint-employer standard that the Office of the General Counsel continues to apply to all, including franchises.

On May 12, 2014, the Board issued a notice and invitation to file briefs in *Browning-Ferris Industries*, seeking briefing on various joint-employer issues. Among the questions on which the Board's notice sought input was whether the Board should adhere to its existing joint-employer standard or adopt a new standard. In response to the Board's notice, the Office of the General Counsel filed an amicus brief, which is available to the public on the Agency's website. I am also attaching a copy of the amicus brief for your reference. The brief is the best statement of the Office of the General Counsel's view of what the Board's joint-employer standard should be.

As you know, the McDonald's matters are open enforcement actions in which the Office of the General Counsel has alleged that McDonald's USA, LLC and McDonald's franchisees violated the National Labor Relations Act. If parties are unable to reach settlement, complaint will issue and these cases will be heard before an Administrative Law Judge. During that hearing, McDonald's USA, LLC and franchisees will have ample opportunity to review and challenge the evidence and legal theories proffered by counsel for the General Counsel, and to present evidence and legal arguments in its defense. Throughout this proceeding, all parties will be afforded due process protections and a right to a fair trial.

We appreciate your need for information in the performance of your oversight responsibilities and I am committed to working with Congress to accommodate its oversight needs. At the same time, I have an obligation as General Counsel to protect the integrity of this process and the rights of the parties involved. Your letter broadly seeks confidential and privileged information. I am happy to meet with you to discuss how we might accommodate further information requests you may have, consistent with my responsibility to protect the integrity of the Agency's legal processes. If you have additional questions, please do not hesitate to contact Celine McNicholas, Director of the Office of Congressional and Public Affairs, at 202-273-1991.

Sincerely,



Richard F. Griffin, Jr.
General Counsel

Enclosure