March 23, 2016

Mr. Roger Goodell
Commissioner
National Football League
280 Park Avenue
New York, NY 10017

Dear Mr. Goodell:

In January, Democratic members of the Committee on Energy and Commerce sent letters to the National Institutes of Health (NIH) and the Foundation for the NIH (FNIH) launching an investigation into allegations that the National Football League (NFL) attempted to exercise influence over the selection of NIH research applicants for a study funded by an “unrestricted” NFL donation to the NIH. The NFL has repeatedly disputed news accounts suggesting the League played an improper role in the funding dispute.¹ We have been reviewing documents and communications and have conducted interviews with relevant NIH and FNIH personnel in order to understand the conflicting accounts of the NFL’s role in this matter. We now request that the NFL provide its account of the grant funding dispute, as well as furnish relevant information and documents for our review.

In December 2015, ESPN published a detailed article alleging that the NFL “backed out” of providing funding to the NIH for a seven-year, $16 million study to diagnose chronic traumatic encephalopathy (CTE) in living patients.² ESPN’s report noted that the study’s principal investigator, Dr. Robert Stern of Boston University (BU), has been critical of the NFL’s previous attempts to deny a link between football and brain damage.³

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³ Id.
The NFL allegedly voiced concerns about Dr. Stern’s objectivity, concerns that were ultimately found to be unsubstantiated by the NIH. According to emails provided by NIH and FNIH, Dr. Elliot Pellman, previously identified as the NFL’s medical director, expressed reservations about the NIH’s decision to award funding to the BU researchers studying CTE.4 Dr. Pellman asked Dr. Maria Freire, the President and Executive Director of FNIH, to “communicate our concerns and slow down the process until we have a chance to speak to figure this out.”5 These concerns were further discussed in late June 2015 on a call between staff at NIH’s National Institute of Neurological Disorders and Stroke (NINDS), staff at FNIH, Jeff Miller, NFL’s Senior Vice President for Health and Safety Policy, and members of the NFL Head, Neck and Spine Committee (NFL HNS Committee).6 According to Dr. Koroshetz, the members of the NFL HNS Committee conveyed to the NIH and FNIH officials the nature of their concerns with funding the BU researchers.7

In an effort to find a mutually agreeable solution, it appears that over the next few months, NFL’s representatives engaged in a back-and-forth dialogue with members of the NIH and FNIH concerning the BU proposal and the use of the NFL’s “unrestricted” grant. According to documents we have obtained, the parties discussed whether funding additional grants to two other groups of researchers would address the NFL’s concerns. According to Dr. Betsy Nabel, the NFL’s current Chief Medical Officer, “a collaboration of the three groups would be ideal and would dilute the voice of a more marginal group.”8

However, according to Dr. Koroshetz, at a September 10, 2015 meeting of the NINDS Council, Council members concluded in closed session that: 1) the peer review process that had awarded the CTE grant to the BU researchers was appropriate and above board; 2) there were no conflicts of interest regarding the researchers’ objectivity; 3) none of the other grant applications

4 Email from Dr. Elliot Pellman to Dr. Maria Freire (June 17, 2015) (on file with Committee Staff).
5 Id.
6 Briefing by Dr. Walter Koroshetz, to the House Energy and Commerce Committee Staff (Feb. 10, 2016). Dr. Koroshetz participated on the call, as well as Dr. Freire. Additionally, according to FNIH, Dr. Richard Ellenbogen and Dr. Hunter Batjer, co-chairs of the NFL HNS Committee, and Dr. Mitchel Berger, member of the NFL HNS Committee, also participated. Email from FNIH to House Energy and Commerce Committee Staff (Jan. 29, 2016).
7 Briefing by Dr. Walter Koroshetz, to the House Energy and Commerce Committee Staff (Feb. 10, 2016).
8 Email from Dr. Elizabeth Nabel, to Dr. Maria Freire and Jeff Miller (Aug. 12, 2015) (on file with Committee Staff).
had adequate scores to justify funding an additional group of researchers; and 4) the CTE study was very important, and if necessary, NINDS would fund it in its entirety using NINDS funds.\(^9\)

After the September Council decision, Dr. Freire made clear to Jeff Miller that the NFL should fund the CTE study and that failure to do so would be detrimental to NINDS. She wrote, “Since this grant not [sic] was expected to be sourced from the NINDS budget, supporting the CTE study with taxpayer dollars means that NINDS will be unable to fund other meritorious research for several years. As I mentioned on the phone to you, we think it is important for NFL to contribute to this study.”\(^10\) Despite this information, the NFL did not commit to fully funding the CTE study, according to the documents and briefings we have received.

As we underscored in our original letters to NIH and FNIH, the NIH’s independent peer review process forms the cornerstone of the NIH research mission and ensures that applications submitted to the NIH are evaluated by scientific experts in a manner free of inappropriate influences or bias.\(^11\) Efforts by outside entities to disrupt this process or otherwise exercise influence over the selection of NIH research applicants are troubling, and we are committed to a full understanding of the sequence of events that led to this dispute.

The documents produced by NIH and FNIH offer some degree of clarity, but they also raise substantial questions and concerns that can be best addressed by the NFL. In addition, we are interested in better understanding the role and function of the NFL’s HNS Committee, given the significant role that these advisors appear to play in NFL’s funding decisions regarding scientific research.

To facilitate our understanding, please provide the requested documents and information by Wednesday, April 6, 2016. Additionally, we welcome any additional relevant facts or information you wish to provide.

1. Please provide an explanation of why the NFL believed it was appropriate to initially weigh in on the grant review and selection process at NIH.
   
   a. Who made the decision to contact FNIH about the League’s concerns?
   
   b. If this decision is memorialized in any documents or communications, whether formal or informal, please provide a copy, including any notes from applicable meetings of the NFL HNS Committee or executives of the NFL.

\(^9\) Briefing by Dr. Walter Koroshetz, to the House Energy and Commerce Committee Staff (Jan. 19, 2016); Briefing by Dr. Walter Koroshetz, to the House Energy and Commerce Committee Staff (Feb. 10, 2016).

\(^10\) Email from Dr. Maria Freire to Jeff Miller (Oct. 19, 2015) (on file with Committee Staff).

c. What was the involvement of the members of the NFL HNS Committee in making this decision?
d. What was the involvement of NFL executives in making this decision?

2. Please provide an explanation of why the NFL failed to commit to funding Dr. Stern’s study after the September 10, 2015 NINDS Council meeting.

a. Who made the decision not to fund Dr. Stern’s study?
b. If this decision is memorialized in any documents or communications, whether formal or informal, please provide a copy, including any notes from applicable meetings of the NFL HNS Committee or executives of the NFL.
c. What was the involvement of the members of the NFL HNS Committee in making this decision?
d. What was the involvement of NFL executives in making this decision?

3. Please provide the following information regarding the NFL’s HNS Committee:

a. A list of all current members.
b. A list of all reimbursement provided to each member of the NFL HNS Committee for expenses for the past five years. Please break down these funds by category of interest, for example, “NFL-sponsored travel.”
c. A list of all in-kind payments, benefits, or financial incentives each member of the NFL HNS Committee has received for the past five years. Please break down these payments, benefits, or incentives by category of interest, for example, “NFL game tickets.”
d. A list of all NFL-funded research grants in which each member of the NFL HNS Committee is involved in any capacity, including any grants funded by NFL subsidiaries, affiliates, or business partners.

4. How are members of the NFL HNS Committee selected, and who within the NFL is responsible for selecting and/or appointing candidates?

a. Is the relationship between members of the NFL HNS Committee and the NFL contractual or voluntary and at-will? Please provide a copy of a standard contract for prospective members of the NFL HNS Committee.
b. When members of the NFL HNS Committee express opinions on scientific questions, do they speak for the NFL? For example, Dr. Mitchel Berger, a member of the NFL HNS Committee and the head of the subcommittee on long-term brain injury, recently denied there was a link between football and CTE at an NFL-sponsored event as recently as February 4. Was Dr. Berger speaking in his capacity as a member of the NFL HNS Committee, on behalf of the NFL, or both?

5. Dr. Elliot Pellman, a rheumatologist who led the NFL’s now-discredited mTBI Committee from 1994-2007, is widely known for downplaying the effects of
concussions and subconcussive impacts. In response to concerns raised by current
players about Dr. Pellman’s continued involvement with the league, the NFL has
stated that “Dr. Pellman is not a member of any league medical committee and
neither sets policy nor provides medical advice on any issue. He performs
administrative functions for the committees which are responsible for the
implementation of the league’s protocols and making improvements as necessary.”
Yet, as recently as June 2015, Dr. Pellman was communicating with officials at the
NIH and FNIH about the NFL’s reluctance to fund the research study led by Dr.
Stern.  

a. Please describe Dr. Pellman’s current role at the NFL, including any
involvement in the NFL HNS Committee (either formally or informally) as
well as the decision-making process regarding NFL funding of any scientific
research.

Your assistance in this matter is greatly appreciated. If you have any questions, please
contact Una Lee of the minority committee staff at (202) 225-3641.

Sincerely,

Frank Pallone, Jr.
Ranking Member

Gene Green
Ranking Member
Subcommittee on Health

Diana DeGette
Ranking Member
Subcommittee on Oversight and
Investigations

Jan Schakowsky
Ranking Member
Subcommittee on Commerce,
Manufacturing, and Trade

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13 Email from Dr. Elliot Pellman to Dr. Maria Freire (June 17, 2015) (on file with Committee Staff).