

United States Senate

WASHINGTON, DC 20510

November 15, 2021

The Honorable Gina Raimondo
Secretary
Department of Commerce
1401 Constitution Ave. N.W.
Washington, DC 20230

Dear Secretary Raimondo,

Enforcement of the Commerce Department's regulations must be a priority to combat growing threats to national security posed by China. This includes enforcement of the Final Direct Product Rule issued by the Bureau of Industry and Security (BIS) in August 2020 restricting Huawei's access to U.S. technologies.¹

In late October, Minority Staff on the Senate Committee on Commerce, Science, and Transportation released a report about Seagate Technology's failure to comply with the rule by continuing to ship hard disk drives to Huawei without a license.² The report simultaneously concluded that the rule's delayed enforcement has likely allowed Seagate Technology to continue shipping these prohibited products for nearly a year without consequence.

Reporting suggests that BIS opened a similar investigation into Seagate Technology earlier this year, although no determination or enforcement action has been released to the public.³ We understand that compliance investigations require thoroughness, but they also must be conducted swiftly to determine whether violations demand the attention of law enforcement. This situation is especially urgent since Huawei's access to certain sensitive U.S.-produced technology products appears largely unobstructed, despite the company's known connections to the Chinese Community Party.

Even more troubling, the Commerce Department's lax enforcement of this rule has the effect of incentivizing other tech-focused companies throughout the supply chain to jeopardize our country's security by transacting with Entity List companies like Huawei. Unless BIS enforces this rule with the speed the situation necessitates, additional suppliers of sensitive technology will

¹ Addition of Huawei Non-U.S. Affiliates to the Entity List, the Removal of Temporary General License, and Amendments to General Prohibition Three (Foreign-Produced Direct Product Rule), 85 FR 51596 (Aug. 20, 2020).

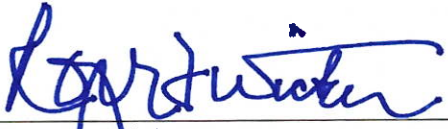
² MINORITY STAFF OF S. COMM. ON COM., SCI., AND TRANSP., 117TH CONG., HUAWEI'S ACCESS TO HARD DISK DRIVES IN AMERICA: AN INVESTIGATION INTO SEAGATE TECHNOLOGY (Oct. 26, 2021), *available at* <https://www.commerce.senate.gov/services/files/2C03C95D-6D36-49FA-8066-52DD1A98A1FE>. *See also* Dan Strumpf, *Seagate Broke Export Curbs by Supplying Huawei, Senate Republicans Say*, WALL ST. J. (Oct. 26, 2021), https://www.wsj.com/articles/seagate-broke-export-curbs-by-supplying-huawei-senate-republicans-say-11635254101?mod=tech_featst_pos1.

³ Bill Gertz, *Seagate Chip Sales to China's Huawei Investigated*, WASH. TIMES (Mar. 17, 2021), <https://www.washingtontimes.com/news/2021/mar/17/seagate-chip-sales-to-chinas-huawei-investigated/>.

likely engage in unlawful trade practices with companies closely connected to adversarial governments.

Poorly enforced regulations carry neither the force of law nor the respect of the private sector. Distorted incentives in sensitive technology markets caused by enforcement uncertainty requires the Commerce Department to act quickly to prevent additional unlawful shipments of prohibited products to Entity List companies like Huawei. We also encourage you to take action to ensure that BIS is equipped to enforce the full arsenal of the Department's export control regulations—and meet the challenges posed by this precarious moment—considering the harms to national security they are intended to prevent.

Sincerely,



Roger F. Wicker
United States Senator
Mississippi



Marsha Blackburn
United States Senator
Tennessee



Todd Young
United States Senator
Indiana



Tom Cotton
United States Senator
Arkansas



Jerry Moran
United States Senator
Kansas



Rick Scott
United States Senator
Florida



Ted Cruz
United States Senator
Texas



Cynthia Lummis
United States Senator
Wyoming