

# Congress of the United States

Washington, DC 20510

September 15, 2020

The Honorable William P. Barr  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

Dear Attorney General Barr,

We write to you today with concerns about the lobbying registration practices of individuals representing Chinese military companies in the United States.

As you know, on June 24, the Department of Defense (DOD) released a list of 20 Chinese military companies operating in the United States.<sup>1</sup> On August 28, the DOD added 11 additional companies to the list.<sup>2</sup> This report was required by Congress in the National Defense Authorization Act for Fiscal Year 1999. Notably, the Pentagon deemed several Chinese technology companies, including Huawei, Hikvision, and China Telecom, to be military firms. We applaud the inclusion of these companies in the report, as we believe the DOD's determination accurately reflects these firms' close collaboration with the People's Liberation Army.

A number of individuals and firms representing these Chinese military companies in our nation's capital have registered under the Lobbying Disclosure Act (LDA), not the Foreign Agents Registration Act (FARA). These lobbyists may claim that they do not represent a foreign government or foreign political party, and therefore are eligible for the LDA exemption to FARA. However, the U.S. government has determined that these Chinese firms are extensions of the armed forces of the People's Republic of China. That begs the question: Does the LDA exemption to FARA still apply in this case?

Alternatively, these lobbyists for Chinese military firms may be relying on FARA's "commercial exemption" to justify registration only under the LDA. The Department of Justice's (DOJ) materials on FARA note that the "commercial exemption" does not apply when the lobbying activities "are directed by a foreign government or political party, or they directly promote the public or political interests of the foreign government or political party."<sup>3</sup> With the formal U.S.

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<sup>1</sup> United States Department of Defense, *Qualifying Entities in Response to Section 1237 of the NDAA for FY 1999 (Public Law 105-261)*, June 12, 2020. [https://www.cotton.senate.gov/files/documents/1\\_Sen\\_Cotton\\_NDAA\\_FY\\_1999\\_Sec\\_1237\\_Response\\_06242020%5B5%5D.pdf](https://www.cotton.senate.gov/files/documents/1_Sen_Cotton_NDAA_FY_1999_Sec_1237_Response_06242020%5B5%5D.pdf).

<sup>2</sup> United States Department of Defense, *Qualifying Entities in Response to Section 1237 of the NDAA for FY 1999 (Public Law 105-261)*, June 12, 2020. [https://media.defense.gov/2020/Aug/28/2002486689/-1/-/1/LINK\\_1\\_1237\\_TRANCHE-23\\_QUALIFYING\\_ENTITIES.PDF](https://media.defense.gov/2020/Aug/28/2002486689/-1/-/1/LINK_1_1237_TRANCHE-23_QUALIFYING_ENTITIES.PDF).

<sup>3</sup> United States Department of Justice, *FARA Frequently Asked Questions*, April 12, 2020. <https://www.justice.gov/nsd-fara/frequently-asked-questions#18>.

government determination that these firms are Chinese military companies, does FARA's "commercial exemption" clause still apply to these firms?

If these exemptions to FARA do not apply to the representatives of these Chinese military firms, does the DOJ believe that lobbyists for these firms must register under FARA?

We appreciate your consideration of this important matter and we look forward to continued cooperation with the Administration to safeguard our democratic process from influence by hostile foreign powers.

Sincerely,



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Tom Cotton  
United States Senator



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Mike Gallagher  
Member of Congress