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United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510–6125
WEBSITE: https://commerce.senate.gov

November 15, 2026

The Honorable Howard W. Lutnick
Secretary of Commerce
U.S. Department of Commerce
Washington, DC 20230

Dear Secretary Lutnick:

The Department of Commerce is charged with export controls to protect America's technological edge and to keep sensitive technology out of the hands of our adversaries. Despite clear authority from Congress, the Department of Commerce has allowed advanced AI chips to flow through companies with ties to the People's Republic of China (PRC). The Department of Commerce has resisted efforts to restrict companies flagged as national security threats, weakened safeguards, and left open pathways for the PRC to train advanced AI models using sensitive American technology. These failures to carry out the law help give away America's technology advantage in AI.

The Export Control Reform Act of 2018 empowers the Department of Commerce with broad authority and responsibility to protect sensitive American technology, investigate violations, and restrict companies that threaten national security. Your failure to use these authorities has undermined America's national security.

First, the Department of Commerce is giving the PRC access to America's most advanced AI computing power, undermining our technological edge. The *Financial Times* reported that Alibaba and ByteDance used overseas data centers equipped with advanced Nvidia chips to train advanced AI models. These companies are exploiting a loophole in U.S. export controls by using advanced American chips in foreign data centers even when those chips are restricted from the PRC. Despite warnings from the Bureau of Industry and Security that certain arrangements may violate existing restrictions, the Department of Commerce failed to close this loophole, allowing PRC companies to advance their AI capabilities using sensitive American technology.

Second, the Department of Commerce has resisted efforts by the Departments of Treasury, State, and Defense to keep sensitive American technology away from high-risk companies. White House and intelligence officials reportedly urged the Department of Commerce to restrict Megaspeed beginning in fall 2025. You received a classified warning in May 2026, yet the Department of Commerce did not act. Treasury Secretary Bessent has now publicly confirmed that the Departments of Treasury, Defense, State, and the U.S. Trade Representative supported restricting Megaspeed for months. Despite these warnings, the Department of Commerce delayed action on repeated national security warnings, putting America's technological advantage in AI at risk.

Third, the Department of Commerce suspended an investigation into the suspected diversion of America's most advanced AI chips to the PRC, risking further transfers of sensitive technology. Department of Commerce investigators were examining Megaspeed when Nvidia's general counsel reportedly contacted them in August 2025, apparently with permission from Under Secretary Jeffrey Kessler. The Department of Commerce subsequently suspended its administrative investigation when the Department of Justice requested that the matter be transferred for criminal investigation. By suspending its investigation without restricting Megaspeed, the Department of Commerce left the company free to continue obtaining advanced American AI chips despite serious national security concerns.

Fourth, the Department of Commerce promulgated a loophole that weakened previous standards designed to keep America's most sensitive technology out of the hands of blacklisted PRC companies. In September 2025, the Bureau of Industry and Security established a rule extending certain export restrictions to subsidiaries majority-owned by restricted companies. The Department of Commerce suspended the rule in November 2025 and extended that suspension through January 10, 2027. The result is a continuing loophole that allows restricted companies to seek American technology through subsidiaries.

Finally, financial conflicts raise serious questions about whether the Department of Commerce is putting business interests ahead of national security. Cantor Fitzgerald, now controlled by your sons, reportedly held $1.2 billion in Nvidia stock at the time of your nomination. The Administration has also imposed an unprecedented 25 percent fee on certain Nvidia chips sold to the PRC, creating a perverse financial incentive to approve exports of sensitive American technology. America's national security and AI leadership cannot be compromised by family business interests or a policy that generates federal revenue from exporting technology critical to our competitive edge.

America cannot maintain its leadership in AI if the agency responsible for protecting that advantage fails to enforce its own controls. The Administration must account for its failure to enforce these protections and take immediate action to prevent America's most sensitive technology from strengthening our adversaries.

Sincerely,



Maria Cantwell
United States Senator

Ranking Member
Committee on Commerce, Science and Transportation