

March 28, 2022

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, D.C. 20230

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Secretary Raimondo and Attorney General Garland:

I write to express my disappointment and concern over a recent ruling from the United States District Court for the Northern District of Texas regarding ZTE Corporation, a Shenzhen-based technology company partially owned and controlled by the People's Republic of China. The decision, which effectively allowed a malign Chinese corporation off the hook despite credible evidence of its continued wrongdoing, must prompt further action from federal agencies to maintain oversight of the firm.

ZTE is one of the most significant producers of telecommunication equipment and 5G infrastructure worldwide, and the federal government has explicitly described it as posing a threat to United States national security. In 2017, the firm reached a settlement with the United States Government, in which ZTE agreed to pay \$900 million and admitted to having organized an illegal conspiracy to surreptitiously send Iran and North Korea sensitive American technology. Barely a year later, ZTE was found to have violated the terms of its settlement, in addition to having lied about the extent of its compliance with the agreement. As you are no doubt familiar, this resulted in even harsher punishments on the company, with the Trump Administration's Commerce Department issuing a denial order on ZTE – effectively prohibiting all dealings with the company involving items subject to U.S. jurisdiction. The firm was then required to remove senior leadership and pay \$1 billion further to have the order overturned.

Facing catastrophic financial consequences from Commerce's blacklisting, ZTE worked to have the denial order removed in July 2018. However, in the five-year probationary period required by the 2017 settlement terms, further evidence of the company's malign actions and noncompliance has emerged. An ongoing court case in Georgia strongly suggests that the company, and its employees, have conspired to commit visa fraud, with a former ZTE research director and professor having been accused of abusing the J-1 visa program at the Georgia Institute of Technology to bring in Chinese nationals to work at a ZTE lab for several years.

While assessing ZTE's behavior across its probationary period, U.S. District Judge Ed Kinkeade appeared unconvinced of any serious commitment to reform, noting that the company's "record of compliance can be summarized in one word – 'sometimes.'" Given that the decision effectively marks the end of ZTE's five-year probationary period, the net result is that a firm explicitly identified by the Federal Communications Commission as a national

security threat is today rewarded with relaxed oversight, despite its acknowledged non-compliance. Therefore, I request that the Departments of Commerce and Justice take all appropriate measures against ZTE to ensure it cannot pose a threat to Americans, including adding the company to the Bureau of Industry and Security's Entity List or pursuing potential criminal or civil penalties.

Thank you for your attention to these important matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rubio', with a stylized flourish at the end.

Marco Rubio
U.S. Senator