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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

February 23, 2025

Howard Lutnick
Secretary
Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Lutnick,

I write to you with great concern about the activities of the Department of Government Efficiency (DOGE) within the Department of Commerce. Public reports have documented the efforts of DOGE staff to access sensitive contracting and payment data—including information on Medicare, Social Security, and other sensitive personal information—across the federal government, with little regard for the law or Americans' privacy. These activities are particularly concerning given Elon Musk's obvious conflict of interest in serving in government while owning multiple businesses with significant interests before the federal government. This reported conduct across agencies has already undermined public trust, and – if it is allowed to expand further at the Commerce Department—will threaten national security and the Department's ability to fulfill its mission.

Under the guise of cost-cutting and uncovering fraud, Elon Musk and his DOGE associates have moved across the federal government, demanding access to critical databases and IT systems, exfiltrating sensitive data to feed AI programs, and firing civil servants that stand in their way.¹ Mr. Musk, meanwhile, even while serving as a Special Government Employee, continues to expand his business empire, making an unsolicited bid just last week to buy his competitor OpenAI for \$97.4 billion,² cutting a deal with Visa to enter the mobile payment market,³ and issuing thinly veiled threats against advertisers that do not spend money on his X platform.⁴ In several cases, the DOGE team's sights have been trained on the parts of government where Mr. Musk has substantial interests. For example, soon after he announced the deal between X and

¹ The Atlantic, It's Time to Worry about DOGE's AI plans, Bruce Schneier and Nathan Sanders, February 10, 2025, <https://www.theatlantic.com/technology/archive/2025/02/doge-ai-plans/681635/>. Politico, "Trump administration gives Musk allies access to Treasury payment system," Michael Stratford, Sam Sutton and Holly Otterbein, February 1, 2025, <https://www.politico.com/news/2025/02/01/musk-claims-doge-laxtreasury-00201946>.

² Wall Street Journal, "Musk's \$97.4 Billion OpenAI Bid Piles Pressure on Sam Altman," Tom Dotan and Berber Jin, February 11, 2025, <https://www.wsj.com/tech/ai/musks-97-4-billion-openai-bid-piles-pressure-on-altman-f6749e6c>.

³ CNBC, "Elon Musk's X begins its push into financial services with Visa deal," Hugh Son and MacKenzie Sigalos, January 28, 2025, <https://www.cnbc.com/2025/01/28/elon-musk-x-visa-digital-wallet.html>.

⁴ Wall Street Journal, "X Hinted at Possible Deal Trouble in Talks with Ad Giant to Increase Spending," Suzanne Vranica, February 19, 2025, <https://www.wsj.com/business/media/x-hinted-at-possible-deal-trouble-in-talks-with-ad-giant-to-increase-spending-feb122a6>.

Visa, Musk tweeted “RIP CFPB” and moved to gut X’s new regulator.⁵ After pressuring the head of the Federal Aviation Administration (FAA) to resign, Elon Musk installed his DOGE team at the aviation regulator which oversees Musk’s space venture, SpaceX.⁶ Similarly, earlier this week, the General Service Administration—reportedly, at the direction of DOGE—canceled the leasing contract for the National Labor Relations Board’s office in Buffalo, New York, which filed a complaint against Tesla and SpaceX for taking steps to suppress the rights of workers to unionize.⁷

We are concerned that the Commerce Department and its sub-agencies may be Mr. Musk’s next target. The Department is perhaps the largest repository of trade secrets and other forms of sensitive and confidential data on Mr Musk’s competitors and business partners. The CHIPS Program Office (CPO) holds detailed confidential information on all CHIPS grant applicants, including many with ongoing business relationships with Musk’s many businesses.⁸ The Bureau of Industry and Security (BIS) holds confidential information disclosed in export license applications, including from companies that compete directly with SpaceX, xAI, and Tesla. The National Oceanic and Atmospheric Administration (NOAA) has data on satellite services that compete with SpaceX’s Starlink. The National Telecommunications and Information Administration (NTIA) has information from companies that SpaceX would like to compete against for government contracts to expand rural broadband.⁹ The AI Safety Institute has access to proprietary AI models from companies like OpenAI, which Musk is seeking to buy.¹⁰

For decades, private companies have been able to disclose business confidential information to the federal government to inform policymaking, under the assurance that this information would be protected and used for legitimate purposes. Congress has underwritten this assurance through specific safeguards for business confidential information, including through restricting unauthorized access and disclosure.¹¹ Yet none of these safeguards were designed to protect that information from individuals, like Mr. Musk, who has substantial conflicts of interest and appears to operate without regard for the law.

⁵ CNN, “Elon Musk is waging war on the key check on his business empire,” Matt Egan, February 11, 2025, <https://amp.cnn.com/cnn/2025/02/11/business/elon-musk-cfpb>.

⁶ ProPublica, “One Agency Tried to Regulate SpaceX. Now Its Fate Could Be in Elon Musk’s Hands, Heather Vogell, February 11, 2025, <https://www.propublica.org/article/elon-musk-spacex-doge-faa-ast-regulation-spaceflight-trump>.

⁷ Tweet by NLRB Union, February 20, 2025: <https://x.com/TheNLRBU/status/1892633027882225893>; CNBC, “Tesla accused by NLRB of creating policies to chill workers’ unionizing efforts in Buffalo, May 9, 2024, <https://www.cnbc.com/2024/05/09/tesla-accused-by-nlr-of-chilling-worker-unionizing-efforts-in-buffalo.html>.

⁸ The Korean Economic Daily, “Samsung to make Tesla’s fifth-generation HW5.0 auto chip,” Jeong-Soo Hwang, Ik-Hwan Kim, and Ye-Rin Choi, July 18, 2023, <https://www.kedglobal.com/korean-chipmakers/newsView/ked202307180017>; and DigiTimes Asia, “TSMC chairman reveals shared focus with Elon Musk on humanoid robots,” Bryan Chuang, December 17, 2024, <https://www.digitimes.com/news/a20241217PD208/robot-tsmc-elon-musk-taiwan.html>.

⁹ Broadband Breakfast, “SpaceX in Talks with NTIA to Deploy Starlink for BEAD,” Joel Leighton and Drew Clack, August 6, 2024, <https://broadbandbreakfast.com/spacex-in-talks-with-ntia-to-deploy-starlink-for-bead/>.

¹⁰ National Institute of Standards and Technology, “U.S. AI Safety Institute Signs Agreements Regarding AI Safety Research, Testing and Evaluation With Anthropic and OpenAI,” press release, August 29, 2024, <https://www.nist.gov/news-events/news/2024/08/us-ai-safety-institute-signs-agreements-regarding-ai-safety-research>.

¹¹ 18 U.S.C. § 1905 (making federal employees criminally liable for the unauthorized disclosure of “information [that] concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association”; and 5 U.S.C. § 552(b)(4) (exempting trade secrets and privileged or confidential commercial and financial information from disclosure under the Freedom of Information Act).

There are many ways that Musk and his associates can exploit sensitive information at the Commerce Department. They could access and use trade secrets at CPO, such as production yields and unit costs, to renegotiate contracts with Tesla's chip suppliers. They could feed sensitive data from the Department's many databases into AI programs that analyze the weaknesses of his competitors' business models and identify investment opportunities. They can manipulate datastreams that Musk's competitors rely on, like NOAA's civil space traffic system, to inconvenience or potentially undermine their business operations. Or they could leak market-moving information to sabotage the competition and manipulate markets.

If they obtain and misuse this information, Mr. Musk could obtain substantial and unfair competitive advantages and damage the Department's ability to fulfill its mission. The Commerce Department relies on companies providing timely and accurate economic and business data to inform policymaking. If companies cannot trust the Commerce Department to protect their confidential information, they will stop providing it, an outcome that could have broad ramifications for public policy and national security. CPO will not be able to gather the necessary information to assess if companies are meeting agreed-upon benchmarks for CHIPS funding, imperiling tens of billions of dollars of taxpayer investments. BIS will be unable to solicit the sensitive technical information that enable policymakers to calibrate export controls. And the Department will not be able to undertake the vital surveys and assessments of our industrial base that supports national defense planning, pursuant to the Defense Production Act.¹²

Mr. Musk, of course, is not the only one interested in the Commerce Department's database. The People's Republic of China (PRC) and its legions of state-sponsored hackers have gone to great lengths to break into our economic agencies and exfiltrate data on export controls and sanctions.¹³ News that "a handful of 19-to-24 year-old engineers" are bypassing regular security protocols and are uploading sensitive and sometimes classified¹⁴ government information into a central repository, without cybersecurity protections in place, has undoubtedly made its way to Beijing.¹⁵ It would be devastating to our national security and economic competitiveness if the PRC was able to obtain the sensitive information that informs our export controls or CHIPS Act investments.

The Commerce Department is at a fork in the road. The public depends on the Department's ability to protect business confidential information and use it in the service of the nation, not the interests of one billionaire's business empire. If DOGE is given free rein over the Commerce

¹² 50 U.S.C. § 4555.

¹³ Reuters, "US Treasury says Chinese hackers stole documents in 'major incident,'" Raphael Satter and A.J. Vicens, December 31, 2024, <https://www.reuters.com/technology/cybersecurity/us-treasurys-workstations-hacked-cyberattack-by-china-afp-reports-2024-12-30/>; Reuters, "Chinese hackers breached US Commerce chief's emails; Blinken warns Chinese counterpart," David Shepardson and Christopher Bing, July 13, 2023, <https://www.reuters.com/technology/chinese-hackers-breached-us-commerce-chiefs-emails-blinken-warns-chinese-2023-07-13/>.

¹⁴ NBC, "DOGE data release criticized by intel community; Trump admin says it's public data," Will Steakin, Lucien Bruggeman, and Cindy Smith, February 16, 2025, <https://abcnews.go.com/US/agency-data-shared-doge-online-sparks-concern-intelligence/story?id=118858837>.

¹⁵ The Washington Post, "U.S. government officials privately warn Musk's blitz appears illegal," Jeff Stein, Dan Diamond, Faiz Siddiqui, Cat Zakrzewski, Hannah Natanson and Jacqueline Alemany, February 4, 2025, <https://www.washingtonpost.com/business/2025/02/04/elon-musk-government-legal-doge/>; and TechCrunch, "The biggest breach of US government data is under way," Zach Whittaker, February 7, 2025, <https://techcrunch.com/2025/02/07/doge-biggest-breach-of-united-states-government-data-under-way/>.

Department's networks and databases, it will cause irreversible damage to the nation's economic and national security. To address my concerns about this matter, I ask that you please answer the following questions:

1. Have Mr. Musk and his team been provided access to business or national security confidential data held with the Department? If so:
 - a. Please list all individuals who have gained access to the data. What are these individuals' job titles and responsibilities? Are they federal government employees? What is the nature of their service (e.g., Special Government Employee, Competitive Service, Senior Executive Service)?
 - b. What procedures were followed in giving these individuals access? Did the individuals who were granted access to these systems have appropriate authorization and clearances? If they did, were these clearances granted upon satisfactory completion of a federal background check?
 - c. At any point, have these individuals had the ability to download or copy data or to modify programs or systems for maintaining and analyzing data? And if so, what cybersecurity and information security precautions are in place to ensure the data is secure?
 - d. Who provided these individuals access?
 - e. What was the rationale for granting these individuals access?
 - f. What specific data, programs, and systems have these individuals been given access to?

2. Please describe what safeguards are in place to ensure business confidential data is not misused.
 - a. What safeguards and procedures are in place to safeguard the Department's business or national security confidential data?

We ask that you provide a written response to these questions no later than March 3, and that you provide the Senate Banking Committee minority staff with a briefing on this matter no later than March 11.

Sincerely,



Elizabeth Warren
Ranking Member
Committee on Banking, Housing, and
Urban Affairs

Cc: Mr. Michael Waltz, Assistant to the President and National Security Advisor