

EXHIBIT 20

November 5, 2019

Lauren Hartz
Tel +1 202 637 6363
lhartz@jenner.com

VIA MAIL

Office of Information Policy (OIP)
U.S. Department of Justice
Attn: Matthew Hurd
6th Floor
441 G St. NW
Washington, DC 20530

Re: Freedom of Information Act Appeal; Request. No. DOJ-2019-004384

Office of Information Policy:

We represent Huawei Technologies Co., Ltd. and Huawei Device USA Inc. (together, "Huawei"). This is an appeal from the failure of the Department of Justice, Office of the Attorney General ("OAG"), Office of the Deputy Attorney General ("ODAG"), Office of Legislative Affairs ("OLA"), and Office of Public Affairs ("OPA"), collectively "Main Justice," to respond to our Freedom of Information Act ("FOIA") Request (DOJ-2019-004384) filed on Huawei's behalf on May 1, 2019. A copy of our email submitting the FOIA Request as well as the FOIA request itself are attached as Exhibits A and B. This appeal is filed pursuant to 5 U.S.C. § 552(a)(6) on the grounds that Main Justice has failed to respond to our request within 30 business days, as required under FOIA.

The FOIA Request pertains to a matter of significant public interest. The indictment issued in *United States v. Huawei Technologies Co., Ltd., et al.*, 18-CR-457 (S-2) (AMD) (the "EDNY Indictment"), the arrest of Meng Wanzhou, and 5G technology and related competition have been the subjects of widespread and exceptional media interest. Further, the information sought by the FOIA Request involves questions about the government's integrity that affect public confidence, as well as matters of general public and economic interest.

STATEMENT OF FACTS

On May 1, 2019, Huawei submitted a FOIA request to Main Justice (Exhibits A and B). On May 10, 2019, we received confirmation that our request was received on May 1, 2019. *See* Exhibit C. Having received no further response, we attempted to contact the FOIA analyst assigned to our request, Ms. Sara Tennant, at the number provided in Main Justice's confirmation of receipt. Specifically, on July 7, July 15, and August 14, we left voicemails for Ms. Tennant explaining that we were calling to inquire of the status of our FOIA Request and to offer to discuss possible methods of streamlining the processing. Over the next two weeks, my colleague and Ms. Tennant exchanged voicemails, but were unable to connect. On September 4 and October 2, we attempted to connect with Ms. Tennant again by phone, but have not received responses to those voicemails.

We were never able to connect with Ms. Tennant or anyone else at Main Justice about our FIOA Request. Over the course of the past six months, other than the receipt confirmation correspondence and voicemails, we have received no response from the agency.

BASIS OF APPEAL

Under 5 U.S.C. § 552, an agency must make a determination within 20 business days of receiving the FOIA request, or 30 business days in the case of “unusual circumstances.” To make a determination, an agency must at least: (i) gather and review documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the determination is adverse. *Citizens for Responsibility & Ethics in Washington v. Fed. Election Comm’n*, 711 F.3d 180, 189 (D.C. Cir. 2013). No such determination has been made with respect to the Main Justice FOIA Request. Where, as here, an agency fails to make a timely determination in response to a FOIA request, the requesting party may file an administrative appeal.

Although Main Justice is obligated to respond to our FOIA request regardless, we have good reason to believe that Main Justice possesses documents responsive to our request. For example, sub-bullet three of our request asks for the following:

All materials and communications pertaining to Attorney General Sessions’s China Initiative announced on November 1, 2018, and any planning stages or review of the Initiative, including materials and communications pertaining to the legal basis for or legality of the Initiative, dated on or between January 1, 2018 and the present. *See* Attorney General Jeff Session[s]’s China Initiative Fact Sheet (Nov. 1, 2018), <https://www.justice.gov/opa/speech/file/1107256/download>. *See* Exhibit A.

Given the extensive press coverage, and clear focus of the agency on this China Initiative, it is a near certainty that Main Justice would have a number of documents responsive to our May 1, 2019 FOIA Request.¹

As an alternative to bringing an administrative appeal, a requester is deemed to have exhausted its administrative remedies and may bring a federal district court lawsuit where an agency has not made a timely determination in response to a FOIA request. In an effort to work cooperatively with Main Justice, rather than exercise our right to file a federal lawsuit at this time, we have filed this administrative appeal, the merit of which is clear. Given the lapse of time, we ask that Main Justice be directed to fulfill our FOIA Request forthwith.

¹ *See e.g.*, Ellen Nakashima, *With new indictment, U.S. launches aggressive campaign to thwart China’s economic attacks*, The Washington Post (Nov. 18, 2018), available at https://www.washingtonpost.com/world/national-security/with-new-indictments-us-launches-aggressive-campaign-to-thwart-chinas-economic-attacks/2018/11/01/70dc5572-dd78-11e8-b732-3c72cbf131f2_story.html.

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Thank you for your prompt attention to this appeal. I am available via telephone at (202) 637-6363, or via email at LHartz@jenner.com.

Sincerely,



Lauren Hartz

Exhibit A

Preview Request

The Freedom of Information Act (FOIA) is a federal law that gives the public the right to make requests for federal agency records. Agencies may withhold information according to nine exemptions contained in the statute. The FOIA applies only to federal agencies. It does not apply to records held by Congress, the courts, or by state or local government agencies. Each state has its own public access laws that should be consulted for access to state and local records.

★ indicates a required field.

Agency Selection

Agency Department of Justice - Office of Information Policy

FOIAonline accepts requests for the following DOJ Components: Office of the Attorney General Office of the Deputy Attorney General Office of the Associate Attorney General Office of Legal Policy Office of Legislative Affairs Office of Public Affairs Office of Information Policy To submit a FOIA request to another office not listed above please submit your request directly to that office. Contact information for all DOJ components is available on FOIA.gov .

Request Type

Request Type FOIA

Contact Information

Salutation
First Name Lauren
Middle Initial
Last Name Hartz
Email Address LHartz@Jenner.com
Organization Jenner & Block LLP
Phone Number
Fax Number
Mailing Address Location United States/US Territories
Address Line 1 1099 New York Ave., NW
Address Line 2 Suite 900
City Washington
State/Province District Of Columbia
Zip Code/Postal Code 20001

Processing Fees

Will Pay Up To \$1000.00

Description

Description Please see attached FOIA Request. Regarding fees, I have entered an amount because the form requires a numeric value. Please see attached FOIA Request for further information on my agreement to pay reasonable processing fees.

Request Expedited Processing

Make Request? Yes
Justification Please see attached FOIA Request; certified statement to be submitted separately to the Office of Public Affairs pursuant to 28 CFR 16.5(e)(2).

Request a Fee Waiver

Make Request? No

Attach Supporting Files

| Attached File Name | Size (MB) | File Type |
|---------------------------------------|-----------|--------------------|
| FOIA Request DOJ OAG ODAG OPA OLA.pdf | 0.2761 | Adobe PDF document |

I Agree.

I have read the Privacy and Security Notice and agree to the terms set forth.

I Agree.

Affirmation. Pursuant to 28 USC § 1746, I declare and affirm that under penalty of perjury under the laws of the United States of America that all of the foregoing information, statements, and signatures submitted in connection with this request and in any supporting documents are true and correct to the best of my knowledge.

Exhibit B

May 1, 2019

Lauren Hartz
Tel +1 202 637 6363
LHartz@jenner.com

VIA FOIAONLINE

Douglas Hibbard
Chief, Initial Request Staff
Office of Information Policy
Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530-0001

Re: Freedom of Information Act Request

Dear Mr. Hibbard:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, *et seq.*, I write on behalf of Huawei Technologies Co., Ltd., and Huawei Device USA Inc. to request the following:

- From the Office of the Attorney General and the Office of the Deputy Attorney General
 - All communications with the White House—including the President and any White House officials—pertaining to the Department of Justice’s investigation or prosecution of Huawei or Meng Wanzhou, the allegations against Huawei and Ms. Meng in the indictment issued in *United States v. Huawei Technologies Co., Ltd., et al.*, 18-CR-457 (S-2) (AMD) in the Eastern District of New York (the “EDNY Indictment”), the United States-China trade relationship, or 5G technology or competition (with reference to Huawei), dated on or between January 1, 2017 and the present.
 - All communications with any other Department of Justice component or federal agency pertaining to the United States’ investigation or prosecution of Huawei or Meng Wanzhou or the allegations in the EDNY Indictment, dated on or between January 1, 2017 and the present.
 - All materials and communications pertaining to Attorney General Sessions’s China Initiative announced on November 1, 2018, and any planning stages or review of the Initiative, including materials and communications pertaining to the legal basis for or legality of the Initiative, dated on or between January 1, 2018

and the present. *See* Attorney General Jeff Session[s]'s China Initiative Fact Sheet (Nov. 1, 2018), <https://www.justice.gov/opa/speech/file/1107256/download>.

- All communications with representatives or employees of telecommunications company Ericsson, or any of its subsidiaries or affiliates, or telecommunications company Nokia Corporation, or any of its subsidiaries or affiliates, pertaining to Huawei or Meng Wanzhou, the United States' investigation or prosecution of Huawei or Ms. Meng, the allegations in the EDNY Indictment, or any United States policy pertaining to 5G technology, dated on or between August 1, 2012 and February 28, 2013, or on or between January 1, 2017 and the present.
- All communications with representatives or employees of Cisco Systems, Inc.; Motorola Solutions, Inc.; Motorola Mobility LLC; Nortel Networks Corp.; T-Mobile, Inc.; Quintel Technology Ltd.; InterDigital, Inc.; Lemko Corp.; Akhan Semiconductor Inc.; Qualcomm Incorporated; AT&T Inc.; HSBC Bank USA, N.A.; HSBC Holdings PLC; or any of their subsidiaries or affiliates, pertaining to Huawei or Meng Wanzhou, the United States' investigation or prosecution of Huawei or Ms. Meng, the allegations in the EDNY Indictment, or any United States policy pertaining to 5G technology, dated on or between January 1, 2017 and the present.
- All communications with the Royal Canadian Mounted Police, the Canada Border Services Agency, or any other Canadian authorities or agencies that participated in the investigation or arrest of Meng Wanzhou, dated on or between January 1, 2018 and the present.
- From the Office of the Attorney General, the Office of the Deputy Attorney General, and the Office of Legislative Affairs
 - All communications with any Member(s) of Congress or their staff, including but not limited to Senator Tom Cotton, Senator Marco Rubio, Congressman Michael Conaway, or Senator James Risch, pertaining to Huawei or Meng Wanzhou, dated on or between January 1, 2017 and the present.
 - All materials and communications pertaining to the meeting(s) reportedly held between Members of Congress—including Congressman Dutch Ruppersberger, Congressman Devin Nunes, Congresswoman Michele Bachmann, and Congressman Adam Schiff—and senior officials of Huawei, including Ren Zhengfei, in or around Hong Kong in May 2012. *See* House Permanent Select Comm. Intelligence, *Investigative Report on the U.S. National Security Issues Posed by Chinese Telecommunications Companies Huawei and ZTE* 9 (Oct. 8, 2012), <https://www.hsdl.org/?abstract&did=722516>.

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- From the Office of the Attorney General, the Office of the Deputy Attorney General, and the Office of Public Affairs
 - All materials and communications with and/or regarding Reuters journalists including Babak Dehghanpisheh, Karen Freifeld, Marcus George, Julie Gordon, Grace Li, James Pomfret, Steve Stecklow, or Chyen Yee Lee, pertaining to Huawei or Meng Wanzhou, including how any disclosures from HSBC or its federally appointed Corporate Compliance Monitor, Michael Cherkasky, contributed to the case against Huawei or Ms. Meng, dated on or between August 1, 2012 and February 28, 2013, or on or between October 1, 2018 and the present.

The term “materials” as used in these FOIA requests includes, but is not limited to, papers, instruments, data, documents, records, reports, memoranda, letters, agreements, employee notes, meeting notes, transcripts, and other documentary evidence, whether in paper form or stored on audiotape, videotape, computer, electronic, magnetic, or any other media. The term “communications” as used in these FOIA requests includes, but is not limited to, correspondence, emails, letters, faxes, and messages of any kind, including text, voicemail, video, or other electronic messages.

References to “Huawei” as used in these FOIA requests includes Huawei Technologies Co., Ltd.; Huawei Device USA Inc.; Huawei Device Co., Ltd.; FutureWei Technologies, Inc.; HiSilicon Technologies Co., Ltd.; and any U.S.-based subsidiaries or affiliates of the same.

This is a commercial-use request. I agree on behalf of Huawei to pay all reasonable search, review, and reproduction costs incurred in connection with the processing of this request, but please contact me in the event that these costs will exceed \$1,000 so I can better understand the nature of the costs.

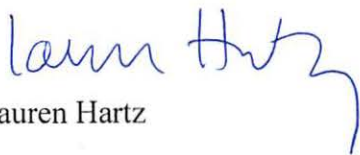
I request expedited processing of this request on the ground that the EDNY Indictment, the arrest of Ms. Meng, the United States-China trade relationship, and 5G technology and competition have been the subjects of widespread and exceptional media interest, and the information sought by this request involves possible questions about the government’s integrity that affect public confidence, as well as matters of general public and economic interest. I further request that a copy of the documents described above be provided by June 1, 2019, or alternatively, that you please contact me if you anticipate this request’s processing extending beyond that date.

Please send a copy of the requested documents to LHartz@Jenner.com where possible, and otherwise to Lauren Hartz, Jenner & Block LLP, 1099 New York Ave., NW, Suite 900, Washington, DC 20001-4412.

Thank you in advance for your assistance.

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Sincerely,

A handwritten signature in blue ink that reads "Lauren Hartz". The signature is written in a cursive style with a long, sweeping tail on the letter 'z'.

Lauren Hartz

Exhibit C



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

May 10, 2019

Lauren Hartz
Jenner & Block LLP
1099 New York Avenue, NW
Suite 900
Washington, DC 20001
LHartz@Jenner.com

Re: DOJ-2019-004384
DRH:SBT

Dear Lauren Hartz:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this Office on May 1, 2019, in which you requested various records specified in your letter regarding the Department of Justice's investigation or prosecution of Huawei or Meng Wanzhou or former Attorney General Jeff Sessions' China Initiative.

You have requested expedited processing of your request pursuant to the Department's standard involving "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." See 28 C.F.R. § 16.5(e)(1)(iv) (2018). Pursuant to Department policy, we directed your request to the Director of Public Affairs, who makes the decision whether to grant or deny expedited processing under this standard. See *id.* § 16.5(e)(2). The Director has determined that your request for expedited processing should be denied. Please be advised that, although your request for expedited processing has been denied; it has been assigned to an analyst in this Office and our processing of it has been initiated.

To the extent that your request requires a search in another Office, consultations with other Department components or another agency, and/or involves a voluminous amount of material, your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2012 & Supp. V 2017). Accordingly, we will need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. For your information, we use multiple tracks to process requests, but within those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of our records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the complex track. In an effort to speed up our process, you may wish to narrow the scope of your request to limit the number of potentially responsive records so that it can be placed in a different processing track. You can also agree to an alternative time frame for processing, should records be located, or you may wish to await the completion of our records search to discuss either of these options. I note that you have indicated that this is being submitted for commercial use and that you have agreed to pay up to \$1,000 in fees at this time.

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact the analyst handing your request, Sara Tennant, by telephone at the above number or you may write to her at the above address. You may also contact our FOIA Public Liaison, Douglas Hibbard, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001; telephone at 202-514-3642; or facsimile at 202-514-1009.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request for expedited processing, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal at <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically submitted within ninety days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas R. Hibbard", with a small "DR" monogram at the end.

Douglas R. Hibbard
Chief, Initial Request Staff