United States Senate
WASHINGTON, DC 20510

February 13, 2020

The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Chao:

As you are aware, the Chinese government has a history of using state subsidies and predatory corporate practices to achieve market dominance in a variety of economic sectors across the globe. Between 2008 and 2016, Chinese state-owned enterprises and Chinese subsidized companies were able to grow their market share of the critical rail supply sector in Australia from 40 percent to more than 95 percent. This crippled the entire rail manufacturing and rail components supply sector of Australia. It is unlikely to recover. Since implementation of its "Made in China 2025" initiative, the Chinese government has identified U.S. rail and bus manufacturing as priority targets for sector dominance.

We firmly believe that all domestic suppliers and manufacturers, U.S. or foreign owned, in the rail and bus industry are capable of competing when on a level playing field. Competing against a state-owned enterprise from China that taps into government subsidies and financing from the state and state-owned banks puts all other rail and bus manufacturers at a distinct and unfair disadvantage. As the Commerce Department has certified, China does not operate as a market economy. By law, Chinese state-owned enterprises are required to comply with the orders of the Chinese state and Chinese Communist Party.

Chinese entities have a pattern of purchasing or partnering with domestic firms in the rail and bus sectors to establish a U.S. presence. They then ship Chinese manufactured components to assembly plants, falsely billed as manufacturing plants, which often employ a large number of Chinese nationals in the key management and engineering positions. This tactic allows them to market themselves as American companies while using Chinese state funds to subsidize the entire supply chain.

Chinese railcars and busses also represent a significant security risk, as they can be easily equipped with undetectable malware, sensors, and transmitters that threaten the safety of America's critical infrastructure and the personal security of American citizens. Rail cars and transit busses are comprised of thousands of individual components, many of them technologically advanced. When dealing with a vertically integrated Chinese supply chain, it is nearly impossible to detect and prevent the use of nefarious technology on these highly advanced vehicles.

To make matters worse, Chinese companies like Build Your Dreams (BYD) and China Railway Rolling Stock Corporation (CRRC) have begun securing taxpayer dollars through contracts

administered by the Federal Transit Administration (FTA). Unfortunately, CRRC has already secured contracts in Los Angeles, Chicago, Boston, and Philadelphia.

The CRRC has used the argument that no U.S. companies manufacture transit railcars and if not for CRRC we would have no transit railcars in America. This Chinese misinformation campaign does not take into account that the U.S. has a thriving and robust transit rail manufacturing sector. This sector, which is comprised of numerous enterprises from market economy allies of the U.S. includes companies such as Bombardier, Kawasaki, Hyundai, Stadler, Siemens, Nippon-Sharyo, and Alstom. These companies employ thousands of Americans and have true manufacturing facilities in several states. Most importantly, unlike CRRC and BYD, these companies use U.S. supply chains, use U.S. produced components, and are compliant under "Buy America" provisions.

To address this growing threat and ensure U.S. taxpayer dollars stay in the U.S., we introduced legislation that prevents federal transit dollars from being used to procure passenger railcars and transit buses from Chinese state-owned, controlled, or subsidized enterprises. President Trump recently signed this legislation into law as part of the FY20 NDAA. However, the law will not go into full effect nationally for another two years. It is important to note that this threat was so highly recognized that it immediately applied to the Washington DC Metro Transit Authority to keep CRRC transit cars out of the nation's Capital. During this two-year window, Chinese predatory companies such as CRRC and BYD are well positioned to underbid market-economy companies and threaten the entire domestic transit sector.

The FTA has the authority to raise awareness of the coming ban on transit rolling stock from state subsidized and controlled corporations. It can also be argued that the FTA has the responsibility to inform transit agencies that Chinese manufactured railcars and busses can compromise national security and the privacy and safety of passengers. Furthermore, we have already started to hear different interpretations of the law and believe strongly that DOT/FTA need to communicate the clear intent of the law as written.

For these reasons, we respectfully request that you direct Acting Administrator Williams to publish information online or issue a "Dear Colleague" letter to FTA grant recipients explaining the recent statutory changes to procurement policy. This would ensure transit agencies have the information necessary to make safe and informed procurement decisions over the next two years.

We stand prepared to assist you in any way possible to ensure prompt evaluation of this request. Please do not hesitate to reach out to our offices with any questions.

Sincerely,

JOHN CORNYN
United States Senator

TAMMY BALDWIN
United States Senator