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12
 13 **IN THE UNITED STATES DISTRICT COURT**
 14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 U.S. WECHAT USERS ALLIANCE, *et al.*,
 16
 17 Plaintiffs,

18 v.

19 DONALD J. TRUMP, President of the United
 States, and WILBUR ROSS, Secretary of
 20 Commerce,
 21 Defendants.

Case No. 3:20-cv-05910-LB

**NOTICE REGARDING
 IMPLEMENTATION OF
 EXECUTIVE ORDER 13943**

Date: Sept. 17, 2020
 Time: 9:30 a.m.
 Place: San Francisco, CA
 Judge: Hon. Laurel Beeler

22 Defendants hereby provide notice to the Court of certain assurances regarding the
 23 implementation of Executive Order 13943 that were sent to Plaintiffs via counsel, which Defendants
 24 believe to be relevant to Plaintiffs' pending motion for a preliminary injunction, ECF No. 17.
 25 Specifically, on September 16, 2020, at approximately 10:50 a.m. Pacific Standard Time, counsel for
 26 Defendants made the following assurances:
 27
 28

1 At present, activity involving the WeChat app is not prohibited. While the Department of
2 Commerce continues to review a range of transactions, including those that could directly
3 or indirectly impact use of the WeChat app, we can provide assurances that the Secretary
4 does not intend to take actions that would target persons or groups whose only connection
5 with WeChat is their use or downloading of the app to convey personal or business
6 information between users, or otherwise define the relevant transactions in such a way
7 that would impose criminal or civil liability on such users. In other words, while use of
8 the app for such communications could be directly or indirectly impaired through
9 measures targeted at other transactions, use and downloading of the app for this limited
10 purpose will not be a defined transaction, and such users will not be targeted or subject to
11 penalties.

12 Defendants' letter memorializing these assurances, which also relates to earlier correspondence
13 on September 16, 2020, and also on September 10, 2020, is attached as Exhibit 1.

14 Dated: September 16, 2020

15 Respectfully submitted,

16 JEFFREY BOSSERT CLARK
17 Acting Assistant Attorney General

18 AUGUST FLENTJE
19 Special Counsel to the Acting
20 Assistant Attorney General

21 ALEXANDER K. HAAS
22 Branch Director

23 DIANE KELLEHER
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25 */s/ Serena Orloff*

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Counsel for Defendants

Exhibit 1



U.S. Department of Justice

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September 16, 2020

Via Electronic Mail

Van Swearingen
Rosen Bien Galvan & Grunfeld LLP
vswearingen@rbgg.com

Re: *U.S. WeChat Users Alliance et al. v. Trump et al.*, No. 3:20-cv-5910 (LB) (N.D. Cal.)

Dear Van,

We write with respect to your motion for a preliminary injunction. As we noted in our opposition to that motion, the Secretary of Commerce has not yet reached a final decision on the specific transactions that will be prohibited under Executive Order 13943. However, at this time, I am able to provide the following representations and assurances regarding the application and implementation of the Executive Order:

At present, activity involving the WeChat app is not prohibited. While the Department of Commerce continues to review a range of transactions, including those that could directly or indirectly impact use of the WeChat app, we can provide assurances that the Secretary does not intend to take actions that would target persons or groups whose only connection with WeChat is their use or downloading of the app to convey personal or business information between users, or otherwise define the relevant transactions in such a way that would impose criminal or civil liability on such users. In other words, while use of the app for such communications could be directly or indirectly impaired through measures targeted at other transactions, use and downloading of the app for this limited purpose will not be a defined transaction, and such users will not be targeted or subject to penalties.

We are happy to discuss further; however, we believe these assurances largely address the concerns

presented in your motion for a preliminary injunction and plan to inform the Court of this correspondence so that she can consider it in conjunction with the hearing tomorrow.

Sincerely,

/s/

Serena M. Orloff

cc: Michael Bien, Esq.
Clay Zhu, Esq.
Angus Ni, Esq.