

116TH CONGRESS
1ST SESSION

S. 1457

To provide for interagency coordination on risk mitigation in the communications equipment and services marketplace and the supply chain thereof, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2019

Mrs. BLACKBURN (for herself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for interagency coordination on risk mitigation in the communications equipment and services marketplace and the supply chain thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sharing Urgent, Po-
5 tentially Problematic Locations that Yield Communica-
6 tions Hazards in American Internet Networks Act of
7 2019” or the “SUPPLY CHAIN Act of 2019”.

1 **SEC. 2. INTERAGENCY COORDINATION ON RISK MITIGA-**
2 **TION IN THE COMMUNICATIONS EQUIPMENT**
3 **AND SERVICES MARKETPLACE AND THE SUP-**
4 **PLY CHAIN THEREOF.**

5 (a) DEFINITIONS.—In this section:

6 (1) APPROPRIATE COMMITTEES OF CON-
7 GRESS.—The term “appropriate committees of Con-
8 gress” means—

9 (A) the Committee on Commerce, Science,
10 and Transportation, the Committee on Foreign
11 Relations, the Committee on Armed Services,
12 the Committee on the Judiciary, the Committee
13 on Homeland Security and Governmental Af-
14 fairs, and the Select Committee on Intelligence
15 of the Senate; and

16 (B) the Committee on Energy and Com-
17 merce, the Committee on Foreign Affairs, the
18 Committee on Armed Services, the Committee
19 on the Judiciary, the Committee on Homeland
20 Security, and the Permanent Select Committee
21 on Intelligence of the House of Representatives.

22 (2) APPROPRIATE FEDERAL ENTITY.—The
23 term “appropriate Federal entity” means—

24 (A) the Department of Defense;

25 (B) the Department of Energy;

26 (C) the Department of Homeland Security;

1 (D) the Department of Justice;
2 (E) the Department of Transportation;
3 (F) the Department of the Treasury; and
4 (G) the Office of the Director of National
5 Intelligence.

6 (3) CLASSIFIED INFORMATION.—The term
7 “classified information” means any information or
8 material that has been determined by the Federal
9 Government pursuant to an Executive order, statute,
10 or regulation, to require protection against unau-
11 thorized disclosure for reasons of national security.

12 (4) COMMUNICATIONS EQUIPMENT AND SERV-
13 ICES.—The term “communications equipment and
14 services” includes any hardware, software, or other
15 product or service primarily intended to fulfill or en-
16 able the function of information processing and com-
17 munications by electronic means, including trans-
18 mission and display, including over the internet.

19 (5) RISK.—The term “risk” means any aspect
20 or property of the components of communications
21 equipment and services or the associated supply
22 chain that may be used to gain unauthorized access
23 to a communications network, disrupt a communica-
24 tions network, disrupt the manufacture of commu-
25 nications equipment, disrupt consensus-driven indus-

1 try standards for communications equipment and
2 services, or otherwise harm a communications net-
3 work or the users of the network, including gaining
4 unauthorized access to data or redirecting data.

5 (6) SECRETARY.—The term “Secretary” means
6 the Secretary of Commerce.

7 (7) SUPPLY CHAIN.—The term “supply chain”,
8 with respect to communications equipment and serv-
9 ices—

10 (A) means the network of persons and ac-
11 tivities from source to delivery of the equipment
12 and services; and

13 (B) includes—

14 (i) vendors, suppliers, and providers of
15 the equipment and services; and

16 (ii) persons who manufacture, assem-
17 ble, develop, or test the equipment and
18 services.

19 (b) ONGOING REVIEW.—Consistent with the protec-
20 tion of classified information, the Secretary shall, in co-
21 ordination with the head of each appropriate Federal enti-
22 ty, conduct an ongoing review of risks to the communica-
23 tions equipment and services marketplace and the supply
24 chain thereof.

1 (c) LONG-TERM SCENARIO AND STRATEGIC PLAN-
2 NING.—

3 (1) DEVELOPMENT, ISSUANCE, AND IMPLEMEN-
4 TATION OF PROCEDURES.—Not later than 180 days
5 after the date of enactment of this section, con-
6 sistent with the protection of classified information,
7 the Secretary, in coordination with the head of each
8 appropriate Federal entity, shall—

9 (A) develop and issue procedures to regu-
10 larly facilitate—

11 (i) long-term scenario and strategic
12 planning with private entities that have ap-
13 propriate security clearances to review
14 classified information about risks, includ-
15 ing by—

16 (I) assessing the severity of risks
17 posed to the marketplace of individual
18 components of communications equip-
19 ment and services and the supply
20 chain thereof;

21 (II) identifying counterfeit com-
22 munications equipment and services in
23 the marketplace;

24 (III) assessing the ability of for-
25 eign governments or third parties to

1 exploit the marketplace in a manner
2 that raises risks;

3 (IV) identifying—

4 (aa) emerging risks and
5 long-term trends in the market-
6 place of individual components or
7 standards of communications
8 equipment and services and the
9 supply chain thereof; and

10 (bb) strategies to mitigate
11 risks described in item (aa); and

12 (V) analyzing opportunities for
13 asymmetric advantage;

14 (ii) the—

15 (I) preparation of unclassified in-
16 formation that raises awareness of
17 risks, including, as appropriate, un-
18 classified versions of any information
19 shared under clause (i); and

20 (II) dissemination by the Sec-
21 retary of the unclassified information
22 described in subclause (I) to private
23 entities that do not have appropriate
24 security clearances; and

1 (iii) the voluntary sharing from pri-
2 vate entities to the Secretary of informa-
3 tion about risks to the marketplace; and

4 (B) carry out the procedures developed and
5 issued under subparagraph (A).

6 (2) MANNER OF PRESENTATION.—The informa-
7 tion shared with private entities under paragraph
8 (1)(A)(i) shall be presented in a manner that identi-
9 fies, assesses, and prioritizes risks, the mitigation of
10 risks, and opportunities for asymmetric advantage.

11 (3) INFORMATION SHARED WITH OR PROVIDED
12 TO THE FEDERAL GOVERNMENT.—

13 (A) NO WAIVER OF PRIVILEGE OR PROTEC-
14 TION.—The provision of information to the
15 Federal Government by a private entity under
16 clause (i) or (iii) of paragraph (1)(A) shall not
17 constitute a waiver of any applicable privilege
18 or protection provided by law, including trade
19 secret protection.

20 (B) PROPRIETARY INFORMATION.—Infor-
21 mation provided to the Federal Government by
22 a private entity under clause (i) or (iii) of para-
23 graph (1)(A) shall be considered the commer-
24 cial, financial, and proprietary information of
25 the private entity.

1 (C) EXEMPTION FROM DISCLOSURE
 2 UNDER FOIA.—Information provided to the
 3 Federal Government by a private entity under
 4 clause (i) or (iii) of paragraph (1)(A) shall be
 5 exempt from disclosure under section 552(b)(3)
 6 of title 5, United States Code.

7 (D) EXEMPTION FROM FEDERAL REGU-
 8 LATORY AUTHORITY.—Information provided to
 9 the Federal Government by a private entity
 10 under clause (i) or (iii) of paragraph (1)(A)
 11 shall not be used by any Federal entity to regu-
 12 late, including through an enforcement action,
 13 the lawful activities of the private entity.

14 (E) PROTECTION FROM LIABILITY.—No
 15 cause of action shall lie or be maintained in any
 16 court against a private entity, and such action
 17 shall be promptly dismissed, if the action is re-
 18 lated to or arises out of the provision of infor-
 19 mation to the Federal Government by the pri-
 20 vate entity under clause (i) or (iii) of paragraph
 21 (1)(A).

22 (d) REPORT TO CONGRESS.—

23 (1) IN GENERAL.—Not later than 1 year after
 24 the date of enactment of this section, and biennially
 25 thereafter, the Secretary, in coordination with the

1 head of each appropriate Federal entity, shall sub-
2 mit to the appropriate committees of Congress a re-
3 port on the implementation of this section.

4 (2) CONTENTS.—The report required under
5 paragraph (1) shall—

6 (A) include any recommendations that the
7 Secretary, in collaboration with the heads of the
8 appropriate Federal entities, may have for im-
9 provements or modifications to the procedures
10 developed and issued under this section;

11 (B) evaluate the effectiveness of the proce-
12 dures developed and issued under subsection
13 (c)(1)(A);

14 (C) identify processes and procedures that
15 improve the ability of private entities and the
16 Federal Government to adapt to emerging risks
17 to the marketplace;

18 (D) provide technical guidance on procure-
19 ment of communications equipment and services
20 offered by private entities in order to mitigate
21 vulnerabilities;

22 (E) include recommendations to streamline
23 the provision of security clearances for relevant
24 private sector actors; and

1 (F) assess coordination between the heads
2 of the appropriate Federal entities, including by
3 identifying distinct competencies and jurisdic-
4 tions of each appropriate Federal entity.

5 (3) FORM OF REPORTS.—Each report sub-
6 mitted under paragraph (1) shall be in unclassified
7 form, but may include a classified annex.

8 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to authorize the Secretary or the
10 head of any other Federal agency to issue new regulations.

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