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S. 1625

To promote the deployment of commercial fifth-generation mobile networks and the sharing of information with communications providers in the United States regarding security risks to the networks of those providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2019

Mr. WICKER (for himself, Mr. COTTON, Mr. WARNER, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To promote the deployment of commercial fifth-generation mobile networks and the sharing of information with communications providers in the United States regarding security risks to the networks of those providers, 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 “United States 5G
5 Leadership Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) 3GPP.—The term “3GPP” means the
2 Third Generation Partnership Project.

3 (2) 5G NETWORK.—The term “5G network”
4 means a fifth-generation mobile network as de-
5 scribed by 3GPP Release 15 or higher.

6 (3) APPROPRIATE CONGRESSIONAL COMMIT-
7 TEES.—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Commerce, Science,
10 and Transportation of the Senate;

11 (B) the Committee on Armed Services of
12 the Senate;

13 (C) the Select Committee on Intelligence of
14 the Senate;

15 (D) the Committee on Homeland Security
16 and Governmental Affairs of the Senate;

17 (E) the Committee on Energy and Com-
18 merce of the House of Representatives;

19 (F) the Committee on Armed Services of
20 the House of Representatives;

21 (G) the Permanent Select Committee on
22 Intelligence of the House of Representatives;

23 and

24 (H) the Committee on Homeland Security
25 of the House of Representatives.

1 (4) APPROPRIATE NATIONAL SECURITY AGEN-
2 CY.—The term “appropriate national security agen-
3 cy” means—

4 (A) the Department of Homeland Security;

5 (B) the Department of Defense;

6 (C) the Office of the Director of National
7 Intelligence;

8 (D) the National Security Agency; and

9 (E) the Federal Bureau of Investigation.

10 (5) CLOUD COMPUTING.—The term “cloud
11 computing” has the meaning given the term in Spe-
12 cial Publication 800–145 of the National Institute of
13 Standards and Technology, entitled “The NIST Def-
14 inition of Cloud Computing”, published September
15 2011, or any successor publication.

16 (6) COMMISSION.—The term “Commission”
17 means the Federal Communications Commission.

18 (7) COMMUNICATIONS NETWORK.—The term
19 “communications network” means—

20 (A) a system enabling the transmission,
21 between or among points specified by the user,
22 of information of the user’s choosing;

23 (B) cloud computing resources; and

24 (C) a network or system used to access
25 cloud computing resources.

1 (8) COMMUNICATIONS PROVIDER.—The term
2 “communications provider”—

3 (A) means any provider of interstate or
4 international communication by wire or radio;
5 and

6 (B) includes a telecommunications carrier.

7 (9) COVERED COMPANY.—The term “covered
8 company” means—

9 (A) Huawei Technologies Co., Limited;

10 (B) Zhongxing Telecommunications Equip-
11 ment Corporation;

12 (C) a subsidiary or affiliate of a company
13 described in subparagraph (A) or (B);

14 (D) any communications provider domi-
15 ciled in the People’s Republic of China (or a
16 subsidiary or affiliate of such a company), ex-
17 cluding a communications provider that—

18 (i) is domiciled in the People’s Repub-
19 lic of China; and

20 (ii) is a subsidiary of a company that
21 is not domiciled in the People’s Republic of
22 China; and

23 (E) any entity posing a national security
24 risk.

1 (10) ENTITY POSING A NATIONAL SECURITY
2 RISK.—The term “entity posing a national security
3 risk” means an entity that the Commission deter-
4 mines poses a national security risk under section
5 4(c).

6 (11) SUPPLY CHAIN SECURITY TRUST FUND.—
7 The term “Supply Chain Security Trust Fund”
8 means the trust fund established under section 6.

9 (12) TELECOMMUNICATIONS CARRIER.—The
10 term “telecommunications carrier” has the meaning
11 given the term in section 3 of the Communications
12 Act of 1934 (47 U.S.C. 153).

13 (13) TRUSTED SUPPLIER.—The term “trusted
14 supplier” means a supplier of equipment and serv-
15 ices for communications networks that the Secretary
16 of Homeland Security determines would be appro-
17 priate to further the purposes of section 8.

18 (14) UNITED STATES COMMUNICATIONS PRO-
19 VIDER.—The term “United States communications
20 provider”—

21 (A) means a communications provider
22 domiciled in the United States; and

23 (B) does not include a covered company.

1 **SEC. 3. POLICY STATEMENT ON 5G NETWORK DEPLOYMENT**
2 **AND SECURITY.**

3 It is the policy of the United States—

4 (1) to promote the timely deployment of robust,
5 secure, and resilient commercial 5G networks;

6 (2) to promote the development of the informa-
7 tion and communications technology industry of the
8 United States in order to supply technology and
9 equipment to deploy commercial 5G networks;

10 (3) that the Federal Government should—

11 (A) support but not build or operate 5G
12 networks; and

13 (B) identify additional capacity in the low-
14 bands, mid-bands, and high-bands of the elec-
15 tromagnetic spectrum for licensed and unli-
16 censed use, emphasizing harmonization with
17 global allocations; and

18 (4) that communications networks deployed in
19 the United States should not incorporate any hard-
20 ware or software produced by, or any services of-
21 fered by—

22 (A) a covered company; or

23 (B) any other company that is subject to
24 extrajudicial direction from a foreign govern-
25 ment.

1 **SEC. 4. PROHIBITION OF COMMUNICATIONS EQUIPMENT**
2 **AND SERVICES POSING NATIONAL SECURITY**
3 **RISKS.**

4 (a) PROHIBITION.—Except as provided in subsection
5 (b)(2), funds from a universal service support program es-
6 tablished under section 254 of the Communications Act
7 of 1934 (47 U.S.C. 254) may not be used to purchase
8 communications equipment and services from—

9 (1) a covered company; or

10 (2) any other company that is subject to
11 extrajudicial direction from a foreign government.

12 (b) COMPLETION OF PENDING PROCEEDING.—

13 (1) IN GENERAL.—Not later than 90 days after
14 the date of enactment of this Act, the Commission
15 shall adopt a Report and Order in the proceeding
16 captioned “Protecting Against National Security
17 Threats to the Communications Supply Chain
18 Through FCC Programs” (WC Docket No. 18–89).

19 (2) EXEMPTIONS.—In implementing paragraph
20 (1), the Commission may exempt types or categories
21 of equipment, services, or components thereof that
22 do not pose an undue risk of sabotage to or subver-
23 sion of the design, integrity, manufacturing, produc-
24 tion, distribution, installation, operation, or mainte-
25 nance of communications networks in the United
26 States.

1 (c) ENTITIES POSING A NATIONAL SECURITY
2 RISK.—In determining, for purposes of subparagraph (E)
3 of the definition of the term “covered company”, which
4 entities are entities posing a national security risk, the
5 Commission shall rely solely upon a determination made—

6 (1) by—

7 (A) an appropriate national security agen-
8 cy;

9 (B) an interagency body that includes ap-
10 propriate national security expertise, including
11 the Federal Acquisition Security Council estab-
12 lished under section 1322 of title 41, United
13 States Code; or

14 (C) Congress; or

15 (2) under Executive Order 13873 (84 Fed. Reg.
16 22689; relating to securing the information and
17 communications technology and services supply
18 chain) or any implementing regulations.

19 **SEC. 5. EQUIPMENT REPLACEMENT GRANTS.**

20 (a) IN GENERAL.—The Commission shall make
21 grants to United States communications providers using
22 amounts—

23 (1) made available from the Supply Chain Secu-
24 rity Trust Fund; or

1 (2) borrowed under subsection (d) of this sec-
2 tion.

3 (b) EQUIPMENT TO BE REPLACED.—Amounts from
4 a grant under subsection (a)—

5 (1) may be used only to replace communications
6 equipment and services obtained from a covered
7 company or another entity posing a national security
8 risk, under such terms and conditions as the Com-
9 mission shall establish; and

10 (2) may not be used to replace any equipment
11 purchased on or after August 14, 2018.

12 (c) GRANT ELIGIBILITY.—

13 (1) IN GENERAL.—A communications provider
14 with not more than 6,000,000 customers shall be eli-
15 gible to receive a grant under subsection (a).

16 (2) DEFINITION OF CUSTOMER.—For purposes
17 of paragraph (1), the term “customer”, with respect
18 to a communications provider, means the United
19 States customers of—

20 (A) the communications provider; or

21 (B) any parent, subsidiary, or affiliate of
22 the communications provider.

23 (d) BORROWING AUTHORITY.—

24 (1) IN GENERAL.—Prior to the deposit of funds
25 into the Supply Chain Security Trust Fund, the

1 Commission may borrow from the Treasury such
2 sums as may be necessary, but not to exceed the
3 amount specified in section 6(b)(1), to implement
4 this section.

5 (2) REIMBURSEMENT.—The Commission shall
6 reimburse the Treasury for any amounts borrowed
7 under paragraph (1), without interest, from funds
8 deposited into the Supply Chain Security Trust
9 Fund.

10 **SEC. 6. SUPPLY CHAIN SECURITY TRUST FUND.**

11 (a) ESTABLISHMENT.—There is established in the
12 Treasury of the United States a trust fund to be known
13 as the “Supply Chain Security Trust Fund”.

14 (b) USE OF FUND.—As amounts are deposited into
15 the Supply Chain Security Trust Fund, such amounts
16 shall be used to make the following deposits or payments:

17 (1) REPAYMENT OF AMOUNT BORROWED FOR
18 EQUIPMENT REPLACEMENT.—An amount not to ex-
19 ceed \$700,000,000 shall be available to the Commis-
20 sion to reimburse the general fund of the Treasury
21 for any amounts borrowed under section 5.

22 (2) EQUIPMENT REPLACEMENT.—
23 \$700,000,000, reduced by the amount borrowed
24 under section 5, shall be available to the Commission
25 to carry out that section.

1 (c) DEPOSITS INTO FUND.—Section 309(j)(8) of the
2 Communications Act of 1934 (47 U.S.C. 309(j)(8)) is
3 amended—

4 (1) in subparagraph (A), by striking “and (G)”
5 and inserting “(G), and (H)”;

6 (2) in subparagraph (C)(i), by striking “and
7 (G)” and inserting “(G), and (H)”; and

8 (3) by adding at the end the following:

9 “(H) CERTAIN PROCEEDS DESIGNATED
10 FOR SUPPLY CHAIN SECURITY TRUST FUND.—
11 Notwithstanding subparagraph (A) and except
12 as provided in subparagraph (B), the proceeds
13 (including deposits and upfront payments from
14 successful bidders), not to exceed
15 \$700,000,000, from the use of a system of com-
16 petitive bidding under this subsection shall be
17 deposited in the Supply Chain Security Trust
18 Fund established under section 6 of the United
19 States 5G Leadership Act of 2019.”.

20 **SEC. 7. REPORT ON DEPLOYMENT AND AVAILABILITY OF**
21 **5G NETWORKS.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of enactment of this Act, and biennially thereafter,
24 the Assistant Secretary of Commerce for Communications
25 and Information, in consultation with the Secretary of

1 Homeland Security, the Chairman of the Commission, the
2 Secretary of Defense, and the Director of National Intel-
3 ligence, after providing notice and an opportunity for pub-
4 lic comment, shall submit to the appropriate congressional
5 committees a report that identifies—

6 (1) steps to ensure the secure deployment and
7 availability of 5G networks, with a particular focus
8 on the threat posed by equipment and services pro-
9 duced or provided by covered companies; and

10 (2) any new statutory authority required to en-
11 sure the security of 5G networks in the United
12 States.

13 **SEC. 8. INFORMATION SHARING WITH COMMUNICATIONS**
14 **PROVIDERS AND TRUSTED SUPPLIERS.**

15 (a) **ESTABLISHMENT OF JOINT PROGRAM.**—Not
16 later than 90 days after the date of enactment of this Act,
17 the Secretary of Homeland Security, in consultation with
18 the Director of National Intelligence, the Director of the
19 Federal Bureau of Investigation, the Secretary of Com-
20 merce, and the Chairman of the Commission, shall estab-
21 lish a joint program to share information regarding secu-
22 rity, risks, and vulnerabilities with United States commu-
23 nication providers and trusted suppliers.

24 (b) **DUTIES OF PROGRAM.**—The program established
25 under subsection (a) shall—

1 (1) conduct regular briefings and other events
2 to share information with United States communica-
3 tions providers and trusted suppliers;

4 (2) prioritize engagement with communications
5 providers that—

6 (A) are small businesses; or

7 (B) primarily serve rural areas;

8 (3) as determined appropriate by the Secretary
9 of Homeland Security, facilitate information sharing
10 with United States communications providers and
11 trusted suppliers by providing temporary security
12 clearances to selected citizens of the United States;

13 (4) develop recommendations for United States
14 communications providers to better secure their net-
15 works; and

16 (5) as determined appropriate by the Commis-
17 sion, in consultation with the Assistant Secretary of
18 Commerce for Communications and Information,
19 convene a working group of communications pro-
20 viders to engage in regular briefings and other
21 events regarding national security risks posed to
22 communications networks.

1 **SEC. 9. PROMOTING UNITED STATES LEADERSHIP IN COM-**
2 **MUNICATIONS STANDARDS-SETTING BODIES.**

3 (a) IN GENERAL.—The Secretary of State, the Sec-
4 retary of Commerce, and the Chairman of the Commission
5 shall prioritize the use of Federal funds to enhance rep-
6 resentation of the United States at international forums
7 that set standards for 5G networks and for future genera-
8 tions of wireless communications networks, including—

9 (1) the International Telecommunication Union
10 (commonly known as “ITU”);

11 (2) the International Organization for Stand-
12 ardization (commonly known as “ISO”); and

13 (3) the voluntary standards organizations that
14 develop protocols for wireless devices and other
15 equipment, such as the 3GPP and the Institute of
16 Electrical and Electronics Engineers.

17 (b) BRIEFING.—Not later than 60 days after the date
18 of enactment of this Act, the Secretary of State, the Sec-
19 retary of Commerce, and the Chairman of the Commission
20 shall brief the Committee on Commerce, Science, and
21 Transportation of the Senate, the Select Committee on In-
22 telligence of the Senate, the Committee on Energy and
23 Commerce of the House of Representatives, and the Per-
24 manent Select Committee on Intelligence of the House of
25 Representatives on a strategy to carry out subsection (a).

